

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

IN RE: NATIONAL : MDL NO. 2804
6 PRESCRIPTION OPIATE :
LITIGATION :
7 :

8 THIS DOCUMENT RELATES TO : CASE NO.
ALL CASES : 1:17-MD-2804
9 :
10 : Hon. Dan A.
10 : Polster

January 30, 2019

HIGHLY CONFIDENTIAL - SUBJECT TO FURTHER
CONFIDENTIALITY REVIEW

16 Videotaped deposition of JANET
17 GETZEY HART taken pursuant to notice, was held at
18 the law offices of Morgan, Lewis & Bockius LLP,
19 1701 Market Street, Philadelphia, Pennsylvania,
20 beginning at 9:34 a.m., on the above date, before
Ann Marie Mitchell, a Federally Approved
Certified Realtime Reporter, Registered Diplomate
Reporter, Registered Merit Reporter and Notary
Public.

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<p>1 THE VIDEOGRAPHER: We're now on 2 the record. My name is David Lane, 3 videographer for Golkow Litigation 4 Services. Today's date is January 30, 5 2019. The time is 9:34 a.m.</p> <p>6 This deposition is taking place 7 in Philadelphia, Pennsylvania in the 8 matter of National Opiate Litigation, 9 MDL.</p> <p>10 Our deponent today is Janet 11 Getzey Hart. Counsel will be noted on 12 the stenographic record.</p> <p>13 Our court reporter is Ann Marie 14 Mitchell, who will now swear in the 15 witness.</p> <p>16 - - -</p> <p>17 JANET GETZEY HART, after having 18 been duly sworn, was examined and 19 testified as follows:</p> <p>20 - - -</p> <p>21 EXAMINATION</p> <p>22 - - -</p> <p>23 BY MR. POWERS:</p> <p>24 Q. Good morning.</p>	<p>1 deposed, 20 years ago, what was that in 2 connection with?</p> <p>3 A. It was related to an alleged 4 price fixing for third parties in Baltimore, 5 Maryland.</p> <p>6 Q. And were you working at Rite Aid 7 at that point?</p> <p>8 A. I was.</p> <p>9 Q. And were you a fact witness 10 during that deposition?</p> <p>11 A. I was.</p> <p>12 Q. What was the subject of your 13 testimony for that deposition?</p> <p>14 A. That there was no collusion as 15 far as not taking a third-party plan.</p> <p>16 Q. You also mentioned that you were 17 deposed ten years ago.</p> <p>18 What was that in connection with?</p> <p>19 A. That was in connection with a 20 doctor.</p> <p>21 Q. Do you remember the doctor's 22 name?</p> <p>23 A. I do not.</p> <p>24 Q. When you say in connection with a</p>
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<p>1 A. Good morning.</p> <p>2 Q. My name is Will Powers and I 3 represent the plaintiffs in this litigation.</p> <p>4 Can you please state your full 5 name and spell it for the record?</p> <p>6 A. Sure. Janet Getzey Hart.</p> <p>7 J-A-N-E-T, Getzey, G-E-T-Z-E-Y, last name Hart, 8 H-A-R-T.</p> <p>9 Q. And we are here for your 10 deposition today.</p> <p>11 Do you understand that?</p> <p>12 A. I do.</p> <p>13 Q. Have you ever been deposed 14 before?</p> <p>15 A. I have.</p> <p>16 Q. When was that?</p> <p>17 A. 20 years ago.</p> <p>18 Q. Was that the only time you've 19 been deposed?</p> <p>20 A. I've been deposed twice.</p> <p>21 Q. What was the other time you were 22 deposed?</p> <p>23 A. Probably ten years ago.</p> <p>24 Q. And the first time you were</p>	<p>1 doctor, what do you mean?</p> <p>2 A. I believe there was an action 3 against a doctor and I was deposed in that 4 action.</p> <p>5 Q. Why were you deposed?</p> <p>6 A. Because I worked for Rite Aid and 7 they had dispensed prescriptions for the doctor.</p> <p>8 MS. McENROE: And, Janet, just 9 let him finish his questions before you 10 answer.</p> <p>11 THE WITNESS: Oh, okay.</p> <p>12 MS. McENROE: Take your time.</p> <p>13 THE WITNESS: Sorry.</p> <p>14 BY MR. POWERS:</p> <p>15 Q. Do you know where that doctor was 16 operating?</p> <p>17 A. The deposition was in Harrisburg.</p> <p>18 That's all I remember.</p> <p>19 Q. You don't recall where the doctor 20 was actually writing the prescriptions from?</p> <p>21 A. I do not.</p> <p>22 Q. Do you know which Rite Aid stores 23 were dispensing those prescriptions?</p> <p>24 A. I do not.</p>

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<p>1 Q. And your counsel just informed 2 you about one of the rules today. I just want to 3 go over a couple others.</p> <p>4 Is that all right?</p> <p>5 A. Certainly.</p> <p>6 Q. Because the court reporter is 7 here writing down everything that we're saying, 8 it's important that only one person is speaking 9 at a time. So as you've been going back and 10 forth here, you obviously can anticipate some of 11 my questions, but I just ask you to allow me to 12 finish my question fully before you start your 13 answer.</p> <p>14 Is that okay?</p> <p>15 A. Perfect.</p> <p>16 Q. And then likewise, I'll let you 17 finish your answer before I ask my questions.</p> <p>18 Does that sound okay?</p> <p>19 A. Perfect.</p> <p>20 Q. And the other thing, too, is I 21 need verbal answers. So no nods of the heads, 22 uh-huhs, uh-uhs, things like that.</p> <p>23 Does that make sense?</p> <p>24 A. Yes.</p>	<p>1 would be in a courtroom?</p> <p>2 A. I do.</p> <p>3 Q. So because you're under oath, if 4 you lie or provide intentionally misleading 5 answers, you may be subject to civil or criminal 6 penalties.</p> <p>7 Do you understand that?</p> <p>8 MS. McENROE: Objection to form.</p> <p>9 THE WITNESS: I do.</p> <p>10 BY MR. POWERS:</p> <p>11 Q. And we can take breaks when you 12 need them, but you have to answer the question if 13 there is one pending.</p> <p>14 Is that okay?</p> <p>15 A. That's fine.</p> <p>16 Q. And as your counsel just did a 17 minute ago, your counsel from time to time may 18 object to my questions, but I'm still entitled to 19 an answer unless your counsel specifically 20 instructs you not to answer.</p> <p>21 Do you understand that?</p> <p>22 A. I do.</p> <p>23 Q. Did you prepare for this 24 deposition here today?</p>
Page 15	Page 17
<p>1 Q. And if for any reason you do not 2 understand a question and require some 3 clarification or explanation of the words I'm 4 using, you must tell me and we'll get that matter 5 resolved before you answer the question.</p> <p>6 Is that okay?</p> <p>7 A. Yes.</p> <p>8 Q. So then if you answer any of my 9 questions, I will assume that you understand it.</p> <p>10 Is that okay?</p> <p>11 A. Yes.</p> <p>12 Q. Are you currently suffering from 13 any medical disease or illness that in any way 14 interferes with your ability to answer truthfully 15 and completely my questions here today?</p> <p>16 A. No.</p> <p>17 Q. Are you currently taking any 18 medication or drugs that may in any way interfere 19 with your ability to answer truthfully and 20 completely here today?</p> <p>21 A. No.</p> <p>22 Q. And the court reporter just swore 23 you in, so do you understand that the testimony 24 you give here today is under oath, just as it</p>	<p>1 A. I did.</p> <p>2 Q. How did you do that?</p> <p>3 A. I met with outside counsel to go 4 over some documents and to discuss Rite Aid's 5 policies, procedures, things along those lines.</p> <p>6 Q. And when you say outside counsel, 7 you're referring to Morgan Lewis counsel?</p> <p>8 A. I am.</p> <p>9 Q. When did you meet with Morgan 10 Lewis counsel?</p> <p>11 A. I have met with them various 12 times over the past several months.</p> <p>13 Q. About how many times?</p> <p>14 A. Perhaps six.</p> <p>15 Q. On average, how long were those 16 meetings you had with outside counsel?</p> <p>17 A. Some were three to four hours.</p> <p>18 Some were a complete day.</p> <p>19 Q. I want to start with your 20 educational background, Ms. Hart.</p> <p>21 Actually, before I continue, is 22 it Ms. Hart or Ms. Getzey Hart?</p> <p>23 A. Ms. Hart is fine.</p> <p>24 Q. Okay. Did you complete high</p>

Page 18	Page 20
1 school?	1 as a pharmacist up to date and current between
2 A. I did.	2 1984 and now?
3 Q. Where did you complete high	3 A. Yes.
4 school?	4 Q. I believe you said you're
5 A. Greater Johnstown Vocational and	5 registered in Pennsylvania. Right?
6 Technical High School in Johnstown, Pennsylvania.	6 A. (Witness nods head.)
7 Q. And what year did you graduate	7 Q. Are you registered as a
8 from high school?	8 pharmacist in any other states?
9 A. 1979.	9 A. New Jersey.
10 Q. Just let me -- I know you can	10 MS. McENROE: Again, just a
11 anticipate my question, but just can you please	11 reminder to respond verbally. So that
12 let me finish my question --	12 first answer had been yes.
13 A. I'm sorry.	13 THE WITNESS: Okay.
14 Q. -- and then you can answer the	14 BY MR. POWERS:
15 question.	15 Q. So you're registered as a
16 It's okay.	16 pharmacist in Pennsylvania and New Jersey; is
17 So just to be clear, what year	17 that correct?
18 did you graduate high school?	18 A. That is correct.
19 A. 1979.	19 Q. Any other states?
20 Q. Do you have any education beyond	20 A. No.
21 high school?	21 Q. When did you first become
22 A. I do.	22 registered as a pharmacist in New Jersey?
23 Q. What is that education?	23 A. Probably two years after
24 A. It is a BS in pharmacy.	24 Pennsylvania.
Page 19	Page 21
1 Q. Where did you get your BS in	1 Q. And are you currently still
2 pharmacy?	2 registered as a pharmacist in New Jersey?
3 A. Duquesne University.	3 A. I am.
4 Q. And where is that located?	4 Q. So from about 1986 to present,
5 A. Pittsburgh, Pennsylvania.	5 you were registered as a pharmacist in New
6 Q. What year did you graduate	6 Jersey; is that right?
7 Duquesne University?	7 A. That sounds about right.
8 A. 1984.	8 Q. No breaks for that registration?
9 Q. Besides your college education,	9 A. No breaks.
10 do you have any other educational background?	10 Q. After graduation from college in
11 A. I do not.	11 1984, did you start working at Rite Aid at that
12 Q. Do you have any certifications of	12 point?
13 any kind?	13 A. I did.
14 A. I am a pharmacist.	14 Q. Are you still currently employed
15 Q. What does that mean, that you're	15 by Rite Aid?
16 a pharmacist?	16 A. I am.
17 A. It means I'm registered with the	17 Q. Have you been employed by Rite
18 state of Pennsylvania as a pharmacist.	18 Aid the entire time, from 1984 until present?
19 Q. Is that registration current?	19 A. I have.
20 A. Yes.	20 Q. When you started working at Rite
21 Q. When did you get that? When did	21 Aid in 1984, what was your position?
22 you first get that registration as a pharmacist?	22 A. I was a pharmacy intern.
23 A. 1984.	23 Q. As a pharmacy intern, where did
24 Q. Have you kept your registration	24 you work?

<p style="text-align: right;">Page 22</p> <p>1 A. Johnstown, Pennsylvania. 2 Q. How long were you a pharmacy 3 intern for? 4 A. Approximately four months. 5 Q. After your position as a pharmacy 6 intern, what was your next title? 7 A. Pharmacist. 8 Q. Now, was that also located in 9 Johnstown, Pennsylvania? 10 A. It was. 11 Q. And when you say located in 12 Johnstown, Pennsylvania, is that the Rite Aid 13 corporate offices? 14 A. It is not. It's a retail 15 pharmacy location. 16 Q. Approximately how long were you a 17 pharmacist for at Rite Aid? 18 MS. McENROE: Objection to form. 19 THE WITNESS: At the Johnstown 20 store, about six months.</p> <p>21 BY MR. POWERS:</p> <p>22 Q. Where did you go after that? 23 A. I became a floater pharmacist and 24 worked at various Rite Aid pharmacy locations in</p>	<p style="text-align: right;">Page 24</p> <p>1 Q. Where was that location where 2 you -- 3 A. Johnstown. 4 Q. Sorry. 5 A. Oh, I'm sorry. 6 Q. What was the location where you 7 were a pharmacy manager? 8 A. Johnstown. 9 Q. Did you have any other 10 responsibilities besides the profitability while 11 you were a pharmacy manager? 12 A. The responsibilities were to 13 dispense prescriptions, payroll, just running the 14 basic business of the pharmacy. 15 Q. After your year as a pharmacy 16 manager, what was your next position at Rite Aid? 17 A. I remained a pharmacist. But 18 then at that particular time, Rite Aid was 19 purchasing some stores, another drugstore chain, 20 Gray Drug. And so after that I went out of the 21 pharmacy and was a training pharmacist as new 22 pharmacists were coming on board from the 23 acquisition. 24 Q. So this would have been around</p>
<p style="text-align: right;">Page 23</p> <p>1 the general area. 2 Q. You say -- when you say the 3 general area, what do you mean by that? 4 A. Around Johnstown. 5 Q. How long were you a floater 6 pharmacist for? 7 A. Approximately two years. 8 Q. So that would be about 1986 you 9 stopped being a floater pharmacist? 10 A. That sounds correct. 11 Q. After a floater pharmacist, what 12 was your next position at Rite Aid? 13 A. I was a pharmacy manager. 14 Q. How long were you a pharmacy 15 manager for? 16 A. Approximately one year. 17 Q. What were your job 18 responsibilities as a pharmacy manager? 19 A. I was responsible for the 20 profitability of that particular pharmacy. 21 Q. When you say that particular 22 pharmacy, are you referring to a Rite Aid retail 23 pharmacy location? 24 A. I am.</p>	<p style="text-align: right;">Page 25</p> <p>1 1987 that you became a training pharmacist? 2 A. That sounds correct. 3 Q. How long did you hold the 4 position as training pharmacist? 5 A. Probably eight months. 6 Q. And you said there was a 7 acquisition that Rite Aid made around that time. 8 Correct? 9 A. Correct. 10 Q. And the name of the other 11 business that Rite Aid acquired was Gray Drug, do 12 I have that correct? 13 A. Gray Drug, yes. 14 Q. So it was your job while you were 15 a training pharmacist to go around to the Gray 16 Drug locations and train them on Rite Aid 17 procedures. 18 Do I have that correct? 19 A. Yes. On procedures and the 20 computer system. 21 Q. And was that also around the 22 Johnstown, Pennsylvania area? 23 A. That was actually throughout the 24 country.</p>

<p style="text-align: right;">Page 26</p> <p>1 Q. After your time as a training 2 pharmacist, what was your next position at Rite 3 Aid?</p> <p>4 A. I moved to Baltimore to become a 5 pharmacy manager.</p> <p>6 Q. So that would have been around 7 1988 when you moved to Baltimore?</p> <p>8 A. That sounds correct.</p> <p>9 Q. And was that position as a 10 pharmacy manager also for a retail location?</p> <p>11 A. It was.</p> <p>12 Q. Were your job responsibilities 13 the same as your previous stint as a pharmacy 14 manager in Johnstown, Pennsylvania?</p> <p>15 A. They were.</p> <p>16 Q. How long were you the pharmacy 17 manager in Baltimore?</p> <p>18 A. Approximately two years.</p> <p>19 Q. After being a pharmacy manager in 20 Baltimore, what was your next job at Rite Aid?</p> <p>21 A. I got promoted to be a pharmacy 22 district manager.</p> <p>23 Q. And that would have been around 24 1990?</p>	<p style="text-align: right;">Page 28</p> <p>1 Q. So that would have been around 2 1992 to 1993. Right?</p> <p>3 A. Correct.</p> <p>4 Q. What did you do as the director 5 of professional placement?</p> <p>6 A. I was responsible for going to 7 schools of pharmacy and recruiting pharmacy 8 students to come to work for Rite Aid. And I was 9 responsible for putting together training 10 programs for the region.</p> <p>11 Q. When you say the region, what 12 region are you referring to?</p> <p>13 A. Baltimore metro market.</p> <p>14 Q. After your year as the director 15 of professional placement, what was your next 16 position at Rite Aid?</p> <p>17 A. Pharmacy division manager.</p> <p>18 Q. How long were you a pharmacy 19 division manager for?</p> <p>20 A. Two years.</p> <p>21 Q. So that would be approximately 22 1993 through 1995?</p> <p>23 A. That is correct.</p> <p>24 Q. And what were your job</p>
<p style="text-align: right;">Page 27</p> <p>1 A. Yes.</p> <p>2 Q. How long were you a pharmacy 3 district manager for?</p> <p>4 A. Approximately two years.</p> <p>5 Q. Was that also in Baltimore, 6 Maryland?</p> <p>7 A. It was.</p> <p>8 Q. What were your responsibilities 9 as a pharmacy district manager?</p> <p>10 A. Similar to that as a pharmacy 11 manager, the pharmacy district manager was 12 responsible for anywhere between 25 to 30 stores, 13 as far as staffing, training, profitability.</p> <p>14 Q. And the 25 to 30 stores that you 15 were responsible for, were those all in the 16 Maryland area?</p> <p>17 A. Yes.</p> <p>18 Q. What was your next position after 19 pharmacy district manager?</p> <p>20 A. Director of professional 21 placement.</p> <p>22 Q. How long were you the director of 23 professional placement?</p> <p>24 A. For approximately a year.</p>	<p style="text-align: right;">Page 29</p> <p>1 responsibilities as a pharmacy division manager?</p> <p>2 A. Similar to the pharmacy manager 3 and the pharmacy district manager. I was 4 responsible for the profitability and operations 5 of approximately 150 Rite Aid pharmacies in the 6 Baltimore metro market.</p> <p>7 Q. After your time as the pharmacy 8 division manager, what was your next position at 9 Rite Aid?</p> <p>10 A. I moved -- I got promoted into 11 the corporate office, and I became a manager of 12 government affairs.</p> <p>13 Q. And that would have been around 14 1995?</p> <p>15 A. Correct.</p> <p>16 Q. Now, when you say the corporate 17 office, are you referring to the Rite Aid offices 18 in Camp Hill, Pennsylvania?</p> <p>19 A. I am.</p> <p>20 Q. Were you physically located 21 starting in 1995 in the offices in Camp Hill, 22 Pennsylvania?</p> <p>23 A. I believe I moved to Camp Hill in 24 1996.</p>

<p style="text-align: right;">Page 30</p> <p>1 Q. When you moved to Camp Hill, it 2 was for the position that you just described, the 3 manager of government affairs. Right? 4 A. It was. 5 Q. What were your job 6 responsibilities as a manager of government 7 affairs? 8 A. I was responsible for varying -- 9 many times varying number of states to follow 10 regulatory and legislation concerning anything 11 that would impact the Rite Aid book of business. 12 I was responsible for compliance with DEA rules 13 and regulations. And I was responsible for 14 prescription drug monitoring programs and 15 submitting data to a limited number of programs 16 that were there in 1995. 17 Q. How long were you the manager of 18 government affairs? 19 A. From 1995 to 2006. 20 Q. In that time period from 1995 to 21 2006, who was your supervisor? 22 A. James Krahulec. 23 Q. Can you spell that last name, 24 please?</p>	<p style="text-align: right;">Page 32</p> <p>1 there was someone that needed to go before a 2 Senate committee or something like that, they 3 would ask me to go and to provide testimony or to 4 speak on behalf of Rite Aid. And so having done 5 that a number of times in my previous capacity, 6 the opportunity came up for the additional 7 position in the Rite Aid corporate headquarters, 8 so that's when they promoted me into that 9 position. 10 And then after that, it was 11 really hands-on training with the individuals at 12 the corporate office. 13 Q. Who were some of the individuals 14 who you did the hands-on training with? 15 A. Mike Podgurski. 16 Q. Anyone else? 17 A. I'm trying to think who else was 18 there at that time. 19 It was pretty much Mike and -- 20 Mike and Jim. 21 Q. When you say Jim, that's James 22 Krahulec? 23 A. (Witness nods head.) 24 MS. McENROE: Is that a yes?</p>
<p style="text-align: right;">Page 31</p> <p>1 A. K-R-A-H-U-L-E-C. 2 Q. Was there anyone else in the 3 government affairs division at Rite Aid during 4 that time period, 1995 to 2006? 5 A. Can you repeat the question? 6 Q. Sure. 7 Was anyone else in the government 8 affairs division, let's say, of Rite Aid between 9 that period, 1995 to 2006? 10 A. We had like an administrative 11 staff, but during that time it was Mr. Krahulec 12 and myself. 13 Q. Who was the administrative staff? 14 A. Deb Hurley. 15 Q. Can you spell the last name? 16 A. H-U-R-L-E-Y. 17 Q. How did you train for your job as 18 manager of government affairs? 19 A. Well, in my capacity as the 20 pharmacy regional person in Baltimore, I had the 21 opportunity at that time to go and testify in 22 Annapolis, meet with legislators. Mr. Krahulec 23 obviously was only one person and couldn't be at 24 that time in approximately 15 states. And so if</p>	<p style="text-align: right;">Page 33</p> <p>1 THE WITNESS: Yes. 2 MR. POWERS: Sorry. Yeah, thank 3 you. 4 BY MR. POWERS: 5 Q. And what was Mike Podgurski's 6 title? 7 A. I don't know what his title was 8 at that time. He's had a lot of titles, I don't 9 know what it was specifically at that time. 10 Q. We've been talking about the 11 government affairs division. 12 What division did Mike Podgurski 13 work in? 14 A. More pharmacy ops. 15 Q. And I'm using the word 16 "division." 17 Is that the correct term or 18 department or is there a better term in how Rite 19 Aid describes the organizational structure? 20 A. It's government affairs 21 department. It's very small. 22 Q. Okay. So it's department, I 23 guess? 24 A. Yeah.</p>

<p style="text-align: right;">Page 34</p> <p>1 Q. Okay. How does the government 2 affairs department fit into the larger 3 organizational structure of the Rite Aid 4 corporate office?</p> <p>5 MS. McENROE: Objection to form.</p> <p>6 THE WITNESS: We monitor 7 legislation and then provide updates to 8 the corporate departments that are 9 involved. If it's a tax issue, we would 10 forward the legislation to the tax 11 department. If it was a pharmacy issue, 12 we would forward it to the pharmacy 13 department. We also had control or 14 looked over DEA rules and regulations. 15 And if there was a question concerning, 16 you know, a DEA rule or regulations, 17 pharmacy operations or the other 18 departments would come and ask us 19 questions or ask us to investigate and 20 provide an answer back to them.</p> <p>21 BY MR. POWERS:</p> <p>22 Q. For DEA issues, you mentioned the 23 pharmacy departments.</p> <p>24 Any other departments you worked</p>	<p style="text-align: right;">Page 36</p> <p>1 Q. You also mentioned before that 2 you gave testimony, I believe you said, to 3 governmental organizations; is that correct?</p> <p>4 A. That is correct.</p> <p>5 Q. What test -- can you give me some 6 examples of the testimony that you gave?</p> <p>7 A. Certainly. There were pieces of 8 legislation to -- where there was going to be a 9 reimbursement cut to Medicaid where the 10 dispensing fee was going to be reduced. And we 11 obviously, from a business perspective, we did 12 not want that to occur, so we would testify in 13 order to maintain the dispensing fee.</p> <p>14 Q. Did you give testimony to state 15 government agencies?</p> <p>16 A. I did.</p> <p>17 Q. What were the state government 18 agencies that you testified to?</p> <p>19 A. I've testified before the 20 Maryland General Assembly, or a subcommittee of 21 the assembly.</p> <p>22 Q. Anywhere else besides the 23 Maryland General Assembly?</p> <p>24 A. The Pennsylvania General</p>
<p style="text-align: right;">Page 35</p> <p>1 with on DEA issues?</p> <p>2 A. Logistics.</p> <p>3 Q. And who did you work with in the 4 logistics department?</p> <p>5 A. I don't remember who was in 6 logistics back then.</p> <p>7 Q. Besides logistics and pharmacy, 8 any other departments you worked with on DEA 9 issues for your time period '95 through 2006?</p> <p>10 A. I think that's it.</p> <p>11 Q. Anyone else besides the pharmacy 12 department, besides Mike Podgurski that you 13 worked with?</p> <p>14 A. There were various individuals in 15 the various -- in that department that I would 16 work with.</p> <p>17 Q. Can you name the ones you 18 remember?</p> <p>19 A. Sure. Scott Jacobson.</p> <p>20 Q. Do you remember Scott Jacobson's 21 title?</p> <p>22 A. VP pharmacy operations.</p> <p>23 Q. Anyone else?</p> <p>24 A. Not at this time.</p>	<p style="text-align: right;">Page 37</p> <p>1 Assembly.</p> <p>2 Q. Anywhere else?</p> <p>3 A. Maine.</p> <p>4 Q. Anywhere else?</p> <p>5 A. Vermont.</p> <p>6 Q. Anywhere else?</p> <p>7 A. Those are the ones that I can 8 recall.</p> <p>9 Q. Did you ever testify about DEA 10 compliance issues before any of the state bodies 11 that you just named?</p> <p>12 MS. McENROE: Objection to form.</p> <p>13 THE WITNESS: For the time period 14 when I was a manager of government 15 affairs, not that I remember.</p> <p>16 BY MR. POWERS:</p> <p>17 Q. Did you ever testify before 18 federal agencies during the time period of 1995 19 through 2006?</p> <p>20 A. I did not.</p> <p>21 Q. Have you ever testified before 22 federal agencies during your entire time at Rite 23 Aid?</p> <p>24 A. I believe no.</p>

<p style="text-align: right;">Page 38</p> <p>1 Q. And to be clear, when I say 2 federal agencies, I'm also including legislative 3 bodies.</p> <p>4 Is that okay?</p> <p>5 A. That's fine.</p> <p>6 Q. Does that change your answer?</p> <p>7 A. No.</p> <p>8 Q. What is the government affairs 9 department relationship with the distribution 10 centers?</p> <p>11 MS. McENROE: Objection to form. 12 THE WITNESS: We work together.</p> <p>13 BY MR. POWERS:</p> <p>14 Q. Do the distribution centers 15 report to the government affairs office?</p> <p>16 A. They do not.</p> <p>17 Q. Was there a typical contact 18 person at each distribution center that you would 19 work with?</p> <p>20 A. There were contact individuals at 21 the distribution centers.</p> <p>22 Q. Did those contact individuals 23 have a particular title at the distribution 24 centers?</p>	<p style="text-align: right;">Page 40</p> <p>1 Q. How about Chris Belli, does that 2 name sound familiar to you?</p> <p>3 A. Yes.</p> <p>4 Q. Is that one of the people you've 5 been working with in the logistics department?</p> <p>6 A. Yes.</p> <p>7 Q. And are those people, Chris Belli 8 and Kevin Mitchell, the people you're referring 9 to when you say the person in charge of the DEA 10 coordinators at the logistics department?</p> <p>11 A. Yes.</p> <p>12 Q. So after 2006, you ceased -- your 13 title ceased to be manager of government affairs. 14 Correct?</p> <p>15 A. Correct.</p> <p>16 Q. What did your title become at 17 that point?</p> <p>18 A. Director, government affairs. I 19 got a promotion.</p> <p>20 Q. Is that your current title, 21 director of government affairs?</p> <p>22 A. It is.</p> <p>23 Q. Have you held the position of 24 director of government affairs continuously from</p>
<p style="text-align: right;">Page 39</p> <p>1 A. DEA coordinator.</p> <p>2 Q. So is it fair to say then the 3 government affairs office would interact with the 4 DEA coordinators at each individual distribution 5 center?</p> <p>6 A. I myself would interact more with 7 the person that was in charge of the DEA 8 coordinators at the corporate office.</p> <p>9 Q. Who was the person in charge of 10 the DEA coordinators at the corporate office?</p> <p>11 A. There was a director of 12 logistics, regulatory, something along that title 13 line. I don't know the official title.</p> <p>14 Q. Would that be the logistics -- in 15 the logistics department that you talked about 16 earlier?</p> <p>17 A. Yes.</p> <p>18 Q. Does the name Kevin Mitchell ring 19 a bell for you?</p> <p>20 A. Yes.</p> <p>21 Q. Is that one of the people that 22 you would have been working with in the logistics 23 department?</p> <p>24 A. Yes.</p>	<p style="text-align: right;">Page 41</p> <p>1 2006 until the present?</p> <p>2 A. I have.</p> <p>3 Q. What happened to James Krahulec 4 when you became the director of government 5 affairs?</p> <p>6 A. James Krahulec passed away in 7 2006 or so. And Mike Podgurski moved in to 8 government affairs. So from when I was a 9 director of government affairs, Mike Podgurski 10 then became my boss.</p> <p>11 Q. Did that move of Mike Podgurski 12 to becoming your boss happen at the same time you 13 became director of government affairs?</p> <p>14 A. Close to the same time frame, 15 yes.</p> <p>16 Q. Who else was in your department 17 when you became the director of government 18 affairs?</p> <p>19 A. There would have been an 20 individual, Michael Yount.</p> <p>21 Q. How do you spell that last name?</p> <p>22 A. Y-O-U-N-T.</p> <p>23 Q. When did Mr. Yount start in the 24 government affairs department?</p>

Page 42	Page 44
1 A. I don't remember. 2 Q. Was it around the time you became 3 the director of government affairs? 4 A. I believe it was prior to that 5 point. 6 Q. So Michael Yount was part of the 7 government affairs department before you became 8 director of government affairs? 9 A. Yes. 10 Q. How long did Michael Yount work 11 in the government affairs office? 12 A. I don't recall. 13 Q. Does he still work in the 14 government affairs office? 15 A. He does not. 16 Q. Do you know when he left? 17 A. I don't remember. 18 Q. Was it more or less than ten 19 years ago when Michael Yount left? 20 A. It was more than ten years ago 21 that he left. 22 Q. How come you did not mention 23 Michael Yount before when I asked you who else 24 worked in the government affairs office while you	1 Q. Who else worked in the government 2 affairs office between 1995 and the present? 3 A. Amy Knisely. 4 Q. Anyone else? 5 A. Sarah Everingham, Andrea Bucher. 6 Q. Anyone else? 7 A. Derrick Ridley. 8 Q. How do you spell that last name? 9 A. R-I-D-L-E-Y. 10 Q. Anyone else? 11 A. Sarah Hilbolt. 12 Q. How do you spell that last name? 13 A. H-I-L-B-O-L-T. 14 Q. Anyone else? 15 A. In government affairs was Grace 16 Schuyler. 17 Q. Anyone else? 18 A. Jermaine Smith. 19 Q. And when I say anyone else, feel 20 free to name more than one person at a time. 21 A. Okay. 22 Q. Anyone else besides who you've 23 mentioned so far? 24 A. I'm thinking.
Page 43	Page 45
1 were the manager of government affairs? 2 MS. McENROE: Objection to form. 3 THE WITNESS: I just completely 4 forgot about Michael. 5 BY MR. POWERS: 6 Q. Besides Michael Yount, anyone 7 else work in the government affairs office 8 between '95 and present? 9 A. Not that I remember. 10 Q. Did Amy Knisely ever work in the 11 government affairs department? 12 A. Amy Knisely did, yes. 13 Q. How come you didn't mention her 14 when I asked who else worked in the government 15 affairs department just now? 16 A. You didn't specify a time frame. 17 We were discussing until -- we were discussing 18 the 2006. And Amy Knisely wasn't in the 19 government affairs department in 2006. 20 Q. My question was -- I'm reading 21 off the transcript here, besides Michael Yount, 22 anyone else work in the government affairs office 23 between 1995 and the present? 24 A. Oh, okay. Yes.	1 Yong Choe. 2 Those are to the best of my 3 knowledge. 4 Q. I believe you testified earlier 5 that in -- from 1995 to 2006, the only people in 6 the government affairs office were yourself, 7 James Krahulec, and for some period of that time 8 Michael Yount. Right? 9 A. And Deb Hurley. 10 Q. How come the government affairs 11 office got so much bigger after 2006? 12 MS. McENROE: Objection, form. 13 THE WITNESS: There was the 14 addition of additional people because the 15 responsibilities were expanding. 16 BY MR. POWERS: 17 Q. Why do you say the 18 responsibilities were expanding? 19 A. Prior to 2006, there were a very 20 limited number of state prescription monitoring 21 programs. And more states kept coming onboard 22 with prescription monitoring programs. So there 23 was more data submission to those programs. And 24 then error corrections, when there would be an

<p style="text-align: right;">Page 46</p> <p>1 error that was sent to the program. And that was 2 taking up increasing amounts of time. 3 There was also additional 4 heightened awareness around DEA rules and 5 regulations. Legislation was getting more 6 involved.</p> <p>7 Q. During that period after 2006, 8 who in the government affairs office had 9 responsibility in any shape or form for dealing 10 with the DEA rules and regulations?</p> <p>11 MS. McENROE: Objection to form.</p> <p>12 THE WITNESS: That would be 13 myself.</p> <p>14 BY MR. POWERS:</p> <p>15 Q. Anyone else?</p> <p>16 A. Yes.</p> <p>17 May I make an addition to an 18 individual in government affairs?</p> <p>19 Q. Sure.</p> <p>20 A. I don't believe I mentioned 21 Andrea Bucher.</p> <p>22 Q. Okay. Anyone else besides 23 yourself in the government affairs office that 24 dealt with DEA's rules and regulations?</p>	<p style="text-align: right;">Page 48</p> <p>1 affairs department. Right? 2 A. Yes.</p> <p>3 Q. Is that a separate department 4 from government affairs?</p> <p>5 A. Yes.</p> <p>6 Q. Did you ever work with other 7 people from the regulatory affairs department 8 while you were the director of government 9 affairs?</p> <p>10 A. Yes.</p> <p>11 Q. Who else from regulatory affairs 12 did you interact with?</p> <p>13 A. Zach Hicks.</p> <p>14 Q. Can you spell that?</p> <p>15 A. H-I-C-K-S.</p> <p>16 Q. Anyone else?</p> <p>17 A. Greg Mills. That's it.</p> <p>18 Q. Do you know who the director of 19 the regulatory affairs office was during this 20 time period, starting in 2006?</p> <p>21 A. There was no regulatory affairs 22 department in 2006. I think why there's some 23 confusion here is what happened was government 24 affairs split off from regulatory affairs</p>
<p style="text-align: right;">Page 47</p> <p>1 A. Since then?</p> <p>2 Q. Since 2006.</p> <p>3 A. Amanda Glover.</p> <p>4 Q. Was she also in the government 5 affairs office?</p> <p>6 A. She is in regulatory affairs, but 7 she dealt with DEA.</p> <p>8 Q. Anyone else besides Amanda 9 Glover?</p> <p>10 A. Mike Podgurski.</p> <p>11 Q. But he's not in government 12 affairs. Right?</p> <p>13 A. No. Mike was in government 14 affairs.</p> <p>15 Q. Oh, okay.</p> <p>16 A. He was in operations prior to 17 2006.</p> <p>18 Grace Schuyler.</p> <p>19 Q. Anybody else?</p> <p>20 A. Not that I remember at this time.</p> <p>21 Q. And you mentioned, was it Amanda 22 Glover?</p> <p>23 A. Yes.</p> <p>24 Q. That she was in the regulatory</p>	<p style="text-align: right;">Page 49</p> <p>1 approximately two years ago. And so that's why 2 there's some confusion as far as the individuals 3 and where they worked, because what happened is, 4 even though I still maintained the title of 5 government affairs, I'm in regulatory affairs. 6 So that may be adding to the confusion.</p> <p>7 Q. Okay. Just so I have this 8 correctly here, the department was the department 9 of government affairs from 1995 up until about 10 2017?</p> <p>11 A. There still is a department of 12 government legislative and regulatory, but -- 13 from following that. But there's a regulatory -- 14 department of reg -- a department of regulatory 15 affairs as well. So you still -- you have two 16 now.</p> <p>17 Q. Okay. So from 1995 until 18 current, there was a department of government and 19 regulatory affairs. Right?</p> <p>20 A. (Witness nods head.)</p> <p>21 Yes.</p> <p>22 Q. And then approximately two years 23 ago, around 2017, there's a separate department 24 named regulatory affairs?</p>

<p style="text-align: right;">Page 50</p> <p>1 A. Correct.</p> <p>2 Q. Okay. Why was the regulatory</p> <p>3 affairs department created in 2017?</p> <p>4 A. There was heightened awareness on</p> <p>5 many regulatory affairs issues, such as DEA,</p> <p>6 HIPAA, and so the decision was made to create a</p> <p>7 department.</p> <p>8 Q. Who was the person in charge of</p> <p>9 the regulatory affairs office starting in 2017?</p> <p>10 A. Amanda Glover.</p> <p>11 Q. And she would have been</p> <p>12 previously employed in the government affairs and</p> <p>13 regulatory affairs department prior to 2017; is</p> <p>14 that right?</p> <p>15 A. She was not.</p> <p>16 Q. Do you know where she was before?</p> <p>17 A. Pharmacy operations, I believe.</p> <p>18 Q. How did your job responsibilities</p> <p>19 as the director of government affairs change when</p> <p>20 the new regulatory affairs department was</p> <p>21 created?</p> <p>22 A. I had less responsibilities for</p> <p>23 state legislative and regulatory following</p> <p>24 legislation than I had previously. I had bumped</p>	<p style="text-align: right;">Page 52</p> <p>1 charge of legislative and regulatory for?</p> <p>2 A. Maryland and Delaware.</p> <p>3 Q. When you say in charge of</p> <p>4 legislative and regulatory, what do you mean by</p> <p>5 that?</p> <p>6 A. I mean follow any legislation</p> <p>7 that impacts Rite Aid's book of business and then</p> <p>8 provide that information to the various</p> <p>9 departments that would be impacted by the</p> <p>10 legislation or the regulation, work with groups</p> <p>11 to put forth a response to the legislation,</p> <p>12 provide comments, anything that needed to be done</p> <p>13 related to those issues.</p> <p>14 Q. And you also mentioned that you</p> <p>15 had responsibility for prescription monitoring</p> <p>16 programs.</p> <p>17 Can you explain that?</p> <p>18 A. Certainly. In each state that</p> <p>19 Rite Aid does business, we're required by law to</p> <p>20 report any controlled substance data for</p> <p>21 prescriptions that we dispense to the state. In</p> <p>22 each state, we send the data on a daily basis.</p> <p>23 And then what happens is we get errors back,</p> <p>24 where the stores will say put a symbol in the</p>
<p style="text-align: right;">Page 51</p> <p>1 up and down between the number of states that I</p> <p>2 covered. And I went down to two states to cover</p> <p>3 because of the other increasing responsibilities.</p> <p>4 Q. What were your increasing</p> <p>5 responsibilities?</p> <p>6 A. DEA compliance, prescription</p> <p>7 monitoring program compliance.</p> <p>8 Q. You started talking a little bit</p> <p>9 about it there, but as the director of government</p> <p>10 affairs between 2006 and 2017, what were your job</p> <p>11 responsibilities?</p> <p>12 A. Similar to my responsibilities as</p> <p>13 manager of government affairs.</p> <p>14 Q. Can you explain what you mean by</p> <p>15 that?</p> <p>16 A. Sure. I did the same thing,</p> <p>17 pretty much. I was in charge of DEA compliance</p> <p>18 as far as providing information, questions to the</p> <p>19 various departments throughout the company. I</p> <p>20 was responsible for prescription monitoring</p> <p>21 programs. And I was responsible for legislative</p> <p>22 and regulatory for two states. At present, I'm</p> <p>23 down to one state.</p> <p>24 Q. What two states were you in</p>	<p style="text-align: right;">Page 53</p> <p>1 name. They'll say -- it's a K9 and they put</p> <p>2 parentheses around the K9, so that comes back as</p> <p>3 an error. And then we're responsible for</p> <p>4 correcting that and sending it back to the</p> <p>5 prescription monitoring program.</p> <p>6 We need to stay up on all of the</p> <p>7 different formats and all of the different</p> <p>8 standards related to the prescription monitoring</p> <p>9 program so that we stay in compliance, because</p> <p>10 there are significant fines associated with it if</p> <p>11 we're not in compliance.</p> <p>12 Q. Are you talking about the</p> <p>13 prescription monitoring programs, are those</p> <p>14 particular prescription monitoring programs in</p> <p>15 each state?</p> <p>16 A. Yes, they're in each state.</p> <p>17 Q. And the prescription monitoring</p> <p>18 programs, are they different in each state?</p> <p>19 A. They are.</p> <p>20 Q. Do the prescription monitoring</p> <p>21 programs have anything to do with Rite Aid's role</p> <p>22 as a distributor of controlled substances?</p> <p>23 MS. McENROE: Objection, form.</p> <p>24 THE WITNESS: There are certain</p>

<p style="text-align: right;">Page 54</p> <p>1 states that require distributor data to 2 be sent to them.</p> <p>3 BY MR. POWERS:</p> <p>4 Q. You also mentioned that as 5 director of government affairs that you were in 6 charge of DEA compliance.</p> <p>7 Can you explain what you mean by 8 that?</p> <p>9 A. Certainly. If there was a DEA 10 question or a new DEA rule or regulation that 11 came up, it's my job to communicate that to store 12 operations; to logistics, if it involves 13 transporting drugs; to provide, you know, 14 guidance into policies and procedures as far as 15 compliance with DEA rules and regulations.</p> <p>16 Q. You said it's your job to 17 communicate the DEA compliance issues.</p> <p>18 How would you communicate to the 19 other Rite Aid employees?</p> <p>20 A. If there was a proposed piece of 21 legislation, I would either forward an email to 22 the individuals that are in the correct 23 department. We could possibly have a discussion 24 about the proposed regulation to determine how it</p>	<p style="text-align: right;">Page 56</p> <p>1 VP of operations or the VP of logistics, was that 2 just communicate via email?</p> <p>3 A. Email typically, yes. And then 4 typically what would happen is they would read it 5 and call me back and then we'd start a 6 discussion.</p> <p>7 Q. We've been talking about new 8 rules and regulations.</p> <p>9 How do you communicate 10 long-standing rules and regulations regarding DEA 11 compliance?</p> <p>12 MS. McENROE: Objection to form.</p> <p>13 THE WITNESS: We do that in a 14 number of ways. We have DEA reminder 15 messages that we send to all of our 16 stores on a weekly basis. Those messages 17 include compliance with CSA and the CFR, 18 where they are how to execute an order 19 form, things along those lines.</p> <p>20 BY MR. POWERS:</p> <p>21 Q. How are those DEA reminder 22 messages sent to the stores?</p> <p>23 A. They are sent in what we call a 24 management planner.</p>
<p style="text-align: right;">Page 55</p> <p>1 would impact the Rite Aid book of business.</p> <p>2 Q. So besides emailing the 3 appropriate people and having discussions, did 4 you do anything else to communicate new rules and 5 regulations?</p> <p>6 A. I mean, we might have a meeting, 7 a meeting as such to discuss it and determine 8 what our action plan would be.</p> <p>9 And then we could -- we would 10 have an email communication as far as rolling it 11 out to the stores and what we were going to 12 communicate to stores to do to be compliant. So 13 that was all a part of the process.</p> <p>14 Q. Was there any standard procedure 15 about how to communicate a new DEA rule or 16 regulation?</p> <p>17 A. The standard procedure for myself 18 is to communicate it to our VP of pharmacy 19 operations. If it was logistics, the VP of 20 logistics. Anybody that was involved in that 21 particular matter would be communicated on so 22 that they were aware of pending or then passed 23 legislation.</p> <p>24 Q. When you say communicated to the</p>	<p style="text-align: right;">Page 57</p> <p>1 Q. What is a management planner?</p> <p>2 A. It's a weekly message board that 3 goes out to all of our pharmacies.</p> <p>4 Q. Is this an electronic system?</p> <p>5 A. Yes.</p> <p>6 Q. Who would have access to that 7 electronic system?</p> <p>8 A. The pharmacist, our field 9 management, people in corporate.</p> <p>10 Q. You've been talking about 11 communicating with the stores.</p> <p>12 How about DEA policies and 13 procedures related to distribution, how did you 14 communicate those?</p> <p>15 A. DEA with -- for distribution, 16 would go to the VP of logistics. And then 17 they're individuals during that time period that 18 we mentioned, Kevin Mitchell, Chris Belli, 19 communication would go to them if there was 20 something impacting the distribution centers.</p> <p>21 Q. And those communications would 22 also be just via email?</p> <p>23 A. Typically, yes.</p> <p>24 Q. Any other ways besides email?</p>

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<p>1 A. Normal communications. Their 2 offices are not too -- their office was not too 3 far from mine, so we would have conversations. 4 Q. You mean just like walk down to 5 their office? 6 A. Yep. 7 Q. How did you communicate existing 8 or long-standing DEA regulations regarding 9 distribution of controlled substances?</p> <p>10 MS. McENROE: Objection to form. 11 THE WITNESS: I didn't 12 communicate to the distribution centers. 13 That responsibility would have been on 14 Chris or Kevin Mitchell, depending on the 15 time. But I was not directly 16 communicating to the distribution 17 centers.</p> <p>18 BY MR. POWERS:</p> <p>19 Q. How did you communicate existing 20 DEA rules and regulations to either Chris Belli 21 or Kevin Mitchell?</p> <p>22 A. I don't know that I did that on a 23 routine basis. I believe they were very well 24 versed in existing DEA rules and regulations.</p>	<p>1 Q. Who? 2 A. Amanda Glover. 3 Q. Anyone else? 4 A. Mike Podgurski, Zach Hicks, Greg 5 Mills. 6 Q. Anyone else? 7 A. Scott Jacobson. 8 Q. Did you ever consult anyone 9 outside of Rite Aid when you were formulating 10 guidance on DEA regulations?</p> <p>11 A. Occasionally. 12 Q. Who? 13 A. We had outside counsel at one 14 point, Hyman, Phelps & McNamara. 15 Q. When was that, when you had 16 Hyman, Phelps & McNamara help you with 17 formulating DEA guidance?</p> <p>18 A. 2010 and back. 19 Q. You say and back, do you mean 20 before 2010?</p> <p>21 A. Yes, yes. And that could give or 22 take. That was just pretty much when we stopped 23 communicating. But we still sent communications 24 to them, but not like asking questions or</p>
<p>1 Q. You also mentioned that it was 2 your job to formulate guidance as to the policies 3 and procedures regarding DEA compliance; is that 4 right?</p> <p>5 A. That is correct.</p> <p>6 Q. How did you formulate the 7 guidance?</p> <p>8 A. I would look at a regulation 9 and/or a proposed rule and say, how would this 10 impact Rite Aid. And then if there was a certain 11 action plan that I thought would work as far as 12 rolling out the guidance, then I would put a 13 communication together and say, hello, this is 14 the new DEA regulation and this is how I feel we 15 should do something with it.</p> <p>16 Q. What did you rely on when you 17 were formulating the guidance?</p> <p>18 A. The -- what had been proposed or 19 what had come out, the industry information that 20 it was out there, and my own knowledge.</p> <p>21 Q. Did you ever consult anyone else 22 within Rite Aid about formulating guidance 23 regarding DEA regulations?</p> <p>24 A. Certainly.</p>	<p>1 whatever. 2 Q. Do you know approximately when 3 you started using Hyman, Phelps & McNamara for 4 guidance -- excuse me, to formulate guidance on 5 DEA regulations?</p> <p>6 A. I don't remember.</p> <p>7 Q. Can you give me an approximate 8 date?</p> <p>9 A. At least 2000.</p> <p>10 Q. And who would you talk to at 11 Hyman, Phelps & McNamara about DEA regulations?</p> <p>12 A. Karla Palmer.</p> <p>13 Q. Anyone else?</p> <p>14 A. Larry Houck.</p> <p>15 Q. Can you spell that last name?</p> <p>16 A. H-O-U-C-K.</p> <p>17 Q. Anyone else besides Karla Palmer 18 and Larry Houck?</p> <p>19 A. John Gilbert.</p> <p>20 Q. Anyone else?</p> <p>21 A. Those were the three main 22 individuals.</p> <p>23 Q. How did you communicate with 24 Hyman, Phelps & McNamara?</p>

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<p>1 A. Either email or a phone call.</p> <p>2 Q. And you mentioned there was some</p> <p>3 communication with Hyman, Phelps & McNamara after</p> <p>4 2010. Right?</p> <p>5 A. There is, yes.</p> <p>6 Q. What was the nature of that</p> <p>7 communication after 2010?</p> <p>8 MS. McENROE: Objection, calls</p> <p>9 for privileged information. I instruct</p> <p>10 the witness not to answer.</p> <p>11 Do you have a more specific</p> <p>12 question not seeking privileged</p> <p>13 information? The word "nature" is not</p> <p>14 specific to not seek privileged</p> <p>15 communications.</p> <p>16 BY MR. POWERS:</p> <p>17 Q. After 2010, how did your -- or</p> <p>18 how did Rite Aid's relationship with Hyman,</p> <p>19 Phelps & McNamara change?</p> <p>20 A. I would occasionally call them to</p> <p>21 ask them a question. I also communicate with</p> <p>22 Karla Palmer in the instance where there is a</p> <p>23 prescriber --</p> <p>24 MS. McENROE: Hold on -- nothing</p>	<p>1 about an hour anyway.</p> <p>2 MR. POWERS: Sure. That's fine.</p> <p>3 THE VIDEOGRAPHER: Going off the</p> <p>4 record at 10:30 a.m.</p> <p>5 - - -</p> <p>6 (A recess was taken from</p> <p>7 10:30 a.m. to 10:44 a.m.)</p> <p>8 - - -</p> <p>9 THE VIDEOGRAPHER: We're back on</p> <p>10 the record at 10:44 a.m.</p> <p>11 BY MR. POWERS:</p> <p>12 Q. Welcome back, Ms. Hart.</p> <p>13 Before we took the break, we were</p> <p>14 talking about a settlement agreement that Rite</p> <p>15 Aid had had.</p> <p>16 Can you explain what that</p> <p>17 settlement agreement was?</p> <p>18 A. Rite Aid entered into a</p> <p>19 settlement agreement with the Drug Enforcement</p> <p>20 Administration in 2009.</p> <p>21 Q. What was the nature of that</p> <p>22 settlement?</p> <p>23 MS. McENROE: Objection to form.</p> <p>24 THE WITNESS: There are alleged</p>
<p>1 substantive. So just in terms of the</p> <p>2 nuts and bolts. That's it.</p> <p>3 THE WITNESS: Okay. So I would</p> <p>4 send email communications to them or call</p> <p>5 them.</p> <p>6 BY MR. POWERS:</p> <p>7 Q. I'm just trying to understand why</p> <p>8 you gave 2010 as the end date for your</p> <p>9 relationship with Hyman, Phelps & McNamara.</p> <p>10 How come you used 2010 as the</p> <p>11 date that you ended the relationship, but it</p> <p>12 seems like you communicate after 2010 with Hyman,</p> <p>13 Phelps?</p> <p>14 A. They were primarily our counsel</p> <p>15 prior to that time. And then at that point we</p> <p>16 had a settlement agreement and they worked us</p> <p>17 through the settlement agreement. And then our</p> <p>18 counsel went to another firm.</p> <p>19 Q. What was the firm after Hyman,</p> <p>20 Phelps & McNamara?</p> <p>21 A. Morgan Lewis.</p> <p>22 THE WITNESS: May we take a</p> <p>23 break?</p> <p>24 MS. McENROE: Yeah. It's been</p>	<p>1 recordkeeping violations, alleged missing</p> <p>2 drugs.</p> <p>3 BY MR. POWERS:</p> <p>4 Q. Did you have any involvement in</p> <p>5 the discussions that led to that settlement</p> <p>6 agreement?</p> <p>7 A. I did.</p> <p>8 Q. What was the nature of your</p> <p>9 involvement?</p> <p>10 MS. McENROE: Objection to form.</p> <p>11 Also, just careful caution</p> <p>12 here -- and I know it originally came up</p> <p>13 in the context of privileged information</p> <p>14 and communication with counsel.</p> <p>15 I caution you not to discuss</p> <p>16 anything you discussed with counsel or</p> <p>17 you learned from counsel.</p> <p>18 THE WITNESS: Okay.</p> <p>19 For the settlement agreement, I</p> <p>20 had obtained documents, looked at the</p> <p>21 records based on the allegations of the</p> <p>22 Drug Enforcement Administration and</p> <p>23 reviewed the documents to determine if</p> <p>24 the allegations were correct or not. I</p>

<p style="text-align: right;">Page 66</p> <p>1 visited various stores to look for 2 records. I met with various AUSAs to 3 provide records with outside counsel.</p> <p>4 BY MR. POWERS:</p> <p>5 Q. Was there anything else in the 6 settlement agreement beyond recordkeeping 7 violations?</p> <p>8 MS. McENROE: Objection to form.</p> <p>9 THE WITNESS: There were 10 allegations of medications lost or 11 medications that weren't accounted for. 12 That was the other part of my 13 recollection of it.</p> <p>14 BY MR. POWERS:</p> <p>15 Q. Anything else?</p> <p>16 MS. McENROE: Objection to form.</p> <p>17 THE WITNESS: There could be 18 more, I just don't remember.</p> <p>19 BY MR. POWERS:</p> <p>20 Q. Did the settlement agreement have 21 any allegations regarding Rite Aid knowingly 22 filling prescriptions for controlled substances 23 that were not issued for legitimate medical 24 purposes?</p>	<p style="text-align: right;">Page 68</p> <p>1 computer-based training. We enhanced our 2 DEA store checklist.</p> <p>3 BY MR. POWERS:</p> <p>4 Q. Anything else?</p> <p>5 A. There could be more, I just don't 6 remember.</p> <p>7 Q. As a result of the 2009 8 settlement, did Rite Aid make any changes with 9 regards to its operations as a controlled 10 substance distributor?</p> <p>11 MS. McENROE: Objection to form.</p> <p>12 THE WITNESS: We did not. The 13 Rite Aid distribution center was not 14 involved in the settlement agreement.</p> <p>15 BY MR. POWERS:</p> <p>16 Q. I think you mentioned -- you 17 referred to it as a counting on a quarterly basis 18 of hydrocodone.</p> <p>19 What does that mean?</p> <p>20 A. That means that every quarter 21 Rite Aid would count the hydrocodone that we had 22 on our shelves and balance it to make sure that 23 the inventory was correct.</p> <p>24 Q. When you say on the shelves, you</p>
<p style="text-align: right;">Page 67</p> <p>1 MS. McENROE: Objection to form.</p> <p>2 THE WITNESS: It did.</p> <p>3 BY MR. POWERS:</p> <p>4 Q. In your role as the director of 5 the government affairs office in 2009, did you 6 make any changes as a result of that 2009 7 settlement with the Department of Justice?</p> <p>8 MS. McENROE: Objection to form.</p> <p>9 THE WITNESS: Rite Aid had been 10 making changes up to the settlement 11 agreement. Part of the settlement 12 agreement was counting of hydrocodone and 13 acetaminophen on a quarterly basis. We 14 implemented the MethCheck system in our 15 stores.</p> <p>16 But prior to the 2009 settlement, 17 we had put in a comprehensive program. 18 And that program continues to evolve.</p> <p>19 BY MR. POWERS:</p> <p>20 Q. Let me specify my question. 21 As a direct result of the 2009 22 settlement, what changes were made at Rite Aid?</p> <p>23 MS. McENROE: Objection to form.</p> <p>24 THE WITNESS: We updated our DEA</p>	<p style="text-align: right;">Page 69</p> <p>1 mean on the shelves at the individual pharmacies?</p> <p>2 A. In the stores, yes.</p> <p>3 Q. What is the DEA computer-based 4 training that you referred to earlier?</p> <p>5 A. It is training for pharmacists 6 to -- in all aspects of DEA guidance related to 7 222 Forms, everything that -- what to look for 8 for a prescription. Everything that would be 9 required.</p> <p>10 Q. And that DEA computer-based 11 training, was that only for the individual Rite 12 Aid stores?</p> <p>13 MS. McENROE: Object to the form.</p> <p>14 THE WITNESS: It was.</p> <p>15 BY MR. POWERS:</p> <p>16 Q. So we were talking earlier about 17 resources outside of Rite Aid that you used in 18 your position in government affairs to formulate 19 guidance on DEA regulations. Right?</p> <p>20 A. Correct.</p> <p>21 Q. And you mentioned outside 22 counsel, which we've talked about.</p> <p>23 Is there anyone else outside of 24 Rite Aid that you used to formulate guidance</p>

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<p>1 about DEA regulations?</p> <p>2 A. I would utilize trade groups.</p> <p>3 Q. Which trade groups?</p> <p>4 A. The National Association of Chain</p> <p>5 Drug Stores, the individual state associations,</p> <p>6 Maryland Association of Chain Drug Stores. There</p> <p>7 are retail groups or -- in each of the states</p> <p>8 that would work on legislation or regulation and</p> <p>9 formulate information in how it should be rolled</p> <p>10 out.</p> <p>11 Q. Besides those trade groups you</p> <p>12 just mentioned, anything else? Any other parties</p> <p>13 or organizations outside of Rite Aid that you</p> <p>14 used to formulate guidance about controlled</p> <p>15 substances in Rite Aid?</p> <p>16 A. The National Association of</p> <p>17 Boards of Pharmacy.</p> <p>18 Q. Did you ever consult guidance</p> <p>19 from the Healthcare Distributors Alliance, the</p> <p>20 HDA?</p> <p>21 A. Never.</p> <p>22 Q. How about the HDMA, I believe is</p> <p>23 the prior name?</p> <p>24 A. No.</p>	<p>1 centers as far as their compliance. So</p> <p>2 we did an overall view of our entire</p> <p>3 processes.</p> <p>4 BY MR. POWERS:</p> <p>5 Q. When you say "we" in your</p> <p>6 previous answer, who are you referring to?</p> <p>7 A. Jim Krahulec, myself, pharmacy</p> <p>8 operations.</p> <p>9 Q. Who from pharmacy operations?</p> <p>10 A. It would have been Scott Jacobson</p> <p>11 or Mike Podgurski.</p> <p>12 Q. How did you do your review of the</p> <p>13 policies and procedures that were in place?</p> <p>14 A. We looked at issues that had come</p> <p>15 in from various state inspection notices. If</p> <p>16 there was a recordkeeping allegation from a state</p> <p>17 board of pharmacy, we looked at those and</p> <p>18 determined what some of the more prevalent ones</p> <p>19 were, ones that we were seeing at that point.</p> <p>20 And then we developed different tools that our</p> <p>21 pharmacists could use to organize recordkeeping</p> <p>22 and maintain proper compliance.</p> <p>23 Q. You also said you looked at the</p> <p>24 organization in your stores, what did you mean by</p>
<p style="text-align: center;">Page 71</p> <p>1 Q. So besides outside counsel and</p> <p>2 the trade groups you mentioned, did you rely on</p> <p>3 any other outside individuals or groups to help</p> <p>4 you formulate guidance about the rules and</p> <p>5 regulations surrounding controlled substances?</p> <p>6 A. Not that I can recall.</p> <p>7 Q. To be clear, this is for the</p> <p>8 entire time that you were working in the</p> <p>9 government affairs office between 1995 and 2006?</p> <p>10 A. Yes.</p> <p>11 Q. And your answer is the same?</p> <p>12 A. Yes.</p> <p>13 Q. When you started in the</p> <p>14 government affairs office in 1995, what efforts</p> <p>15 did you make to make sure that Rite Aid was in</p> <p>16 compliance with the current and existing</p> <p>17 regulations regarding controlled substances at</p> <p>18 that point?</p> <p>19 MS. McENROE: Objection to form.</p> <p>20 You may respond.</p> <p>21 THE WITNESS: We reviewed the</p> <p>22 policies and procedures that were in</p> <p>23 place. We looked at organization in our</p> <p>24 stores. We looked at distribution</p>	<p style="text-align: center;">Page 73</p> <p>1 that?</p> <p>2 A. What we were finding was that one</p> <p>3 store would keep invoices in one location in one</p> <p>4 drawer and the other store would keep them in the</p> <p>5 back room with other documentation. And it was</p> <p>6 not -- there was not consistency throughout. So</p> <p>7 at that point then, we developed a DEA</p> <p>8 recordkeeping box that we sent to the store on a</p> <p>9 yearly basis where there are specific folders for</p> <p>10 all of the required DEA documents. So that in</p> <p>11 every store, all the documents are in one place</p> <p>12 and can be located.</p> <p>13 Q. Is that a physical box you --</p> <p>14 A. It's a physical box, yes.</p> <p>15 Q. You also said that you looked at</p> <p>16 the distribution centers as far as their</p> <p>17 compliance.</p> <p>18 What do you mean by that?</p> <p>19 A. I mean, we looked at the</p> <p>20 distribution centers from the standpoint of was</p> <p>21 the cage secure, were there good security</p> <p>22 policies and procedures in place. Were there</p> <p>23 criminal background checks. Was the alarm system</p> <p>24 working. Were the SOPs correct.</p>

<p style="text-align: right;">Page 74</p> <p>1 Q. How did you determine whether the 2 SOPs were correct? 3 A. I got together with logistics, 4 and we had a discussion and went through that, 5 through the SOPs. 6 Q. And logistics, that would have 7 been Chris Belli or Kevin Mitchell? 8 A. Yes. 9 Q. Did you do a periodic review of 10 the SOPs for the distribution centers? 11 A. I did not. They were done by our 12 IA team, internal assurance team, and by the 13 logistics Chris Belli/Kevin Mitchell team. 14 Q. And, sorry, we've been saying 15 SOPs. We should be clear for the record. 16 We're talking about standard 17 operating procedures? 18 A. Correct. 19 Q. Before you reviewed the company's 20 SOPs for compliance, how did you familiarize 21 yourself with what was required from a compliance 22 perspective? 23 MS. McENROE: Objection to form. 24 THE WITNESS: I was pretty</p>	<p style="text-align: right;">Page 76</p> <p>1 consulted about the policies and procedures 2 regarding the distribution of controlled 3 substances? 4 A. Back in the -- when I first came, 5 1995, Jim Krahulec was well versed. And he was 6 my mentor, so I learned a lot from him as well. 7 Q. Did you ever update your 8 understanding of what was required under the 9 Controlled Substances Act or other regulations 10 regarding controlled substances? 11 MS. McENROE: Objection to form. 12 THE WITNESS: Can you repeat the 13 question? 14 BY MR. POWERS: 15 Q. Sure. 16 Besides when you started in the 17 government affairs office in 1995, what other 18 actions did you take to familiarize yourself with 19 the rules and regulations regarding the 20 distribution of controlled substances? 21 A. I would attend various 22 conferences throughout the country to attain 23 knowledge. 24 Q. Besides the conferences, what</p>
<p style="text-align: right;">Page 75</p> <p>1 familiar in my role as the PDM, pharmacy 2 district manager, in my role as the 3 pharmacy division manager with compliance 4 with DEA rules and regulations. From the 5 standpoint of, that was -- at that point, 6 you were also responsible for that in the 7 stores. 8 From the distribution side, it 9 was sort of a read and learn and 10 understand the rules and regulations. 11 BY MR. POWERS: 12 Q. So you just read the rules 13 yourself regarding the rules and regulations 14 about dispensing controlled substances; is that 15 right? 16 A. Or I'd interact with the industry 17 leaders to have discussions about what they were 18 doing, the different best practices that were out 19 there. 20 Q. Who were the industry leaders you 21 interacted with? 22 A. People at NACDS, people at the 23 Maryland Association of Chain Drug Stores. 24 Q. Anyone else at Rite Aid that you</p>	<p style="text-align: right;">Page 77</p> <p>1 else did you do to familiarize yourself with the 2 rules and regulations surrounding the 3 distribution of controlled substances? 4 A. That was pretty much it. 5 Q. Did you do any periodic review of 6 the Rite Aid policies and procedures regarding 7 distribution during your time in the government 8 affairs office? 9 A. I may have. That responsibility 10 to put those into the distribution center rested 11 with Chris and Kevin to work with the SOPs. That 12 was their primary responsibility. 13 Q. So it's your testimony that the 14 logistics department was primarily responsible 15 for the Rite Aid policies regarding compliance 16 with the rules and regulations about the 17 distribution of controlled substances; is that 18 right? 19 MS. McENROE: Objection. 20 THE WITNESS: They were the 21 experts of logistics and what went on at 22 the distribution centers. So, yes, they 23 were responsible for the SOPs. I myself 24 would coordinate with them to review the</p>

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<p>1 SOPs and determine if they were correct.</p> <p>2 BY MR. POWERS:</p> <p>3 Q. In determining whether those SOPs</p> <p>4 were correct, what did you rely on?</p> <p>5 A. DEA rule and regulation, various</p> <p>6 industry resources.</p> <p>7 Q. Did anyone else at Rite Aid help</p> <p>8 you determine whether those regulations were</p> <p>9 correct?</p> <p>10 A. Mr. Krahulec in the beginning.</p> <p>11 And then once I had a better knowledge base,</p> <p>12 primarily myself.</p> <p>13 Q. And you mentioned that you went</p> <p>14 to some conferences about the rules and</p> <p>15 regulations regarding controlled substance</p> <p>16 distribution.</p> <p>17 What were those conferences?</p> <p>18 A. I went to a DEA conference, a</p> <p>19 pharmacy diversion awareness conference where</p> <p>20 that was discussed.</p> <p>21 So various DEA conferences.</p> <p>22 Q. When you say DEA conferences, are</p> <p>23 you talking about conferences put on by the DEA?</p> <p>24 A. Yes.</p>	<p>1 MS. McENROE: Objection to form.</p> <p>2 THE WITNESS: I do not.</p> <p>3 BY MR. POWERS:</p> <p>4 Q. During your time in the</p> <p>5 government affairs office, did you implement any</p> <p>6 new procedures or policies regarding the</p> <p>7 distribution of controlled substances by Rite</p> <p>8 Aid?</p> <p>9 MS. McENROE: Objection.</p> <p>10 THE WITNESS: I myself did not</p> <p>11 implement any policies and procedures for</p> <p>12 the distribution of controlled</p> <p>13 substances. The logistics team may have</p> <p>14 done that, something I was not aware of.</p> <p>15 But I myself did not implement any.</p> <p>16 BY MR. POWERS:</p> <p>17 Q. Do you know if the logistics team</p> <p>18 implemented any new policies or procedures</p> <p>19 regarding the distribution of controlled</p> <p>20 substances during your time in the government</p> <p>21 affairs office?</p> <p>22 MS. McENROE: Objection.</p> <p>23 THE WITNESS: I believe they did.</p> <p>24 BY MR. POWERS:</p>
<p>1 Q. And you also mentioned a</p> <p>2 diversion awareness conference.</p> <p>3 What was that?</p> <p>4 A. That was the DEA also.</p> <p>5 Q. Do you remember how many DEA</p> <p>6 conferences you actually attended?</p> <p>7 A. From 1995 to present?</p> <p>8 Q. Yes.</p> <p>9 A. 12, 15.</p> <p>10 Q. And before you started working in</p> <p>11 the government affairs office, do you know how</p> <p>12 Rite Aid ensured compliance with the rules and</p> <p>13 regulations regarding the distribution of</p> <p>14 controlled substances?</p> <p>15 MS. McENROE: Objection to form.</p> <p>16 THE WITNESS: Could you state</p> <p>17 that again?</p> <p>18 BY MR. POWERS:</p> <p>19 Q. Sure.</p> <p>20 Before you started working in the</p> <p>21 government affairs office, do you know how Rite</p> <p>22 Aid ensured compliance with the rules and</p> <p>23 regulations regarding the distribution of</p> <p>24 controlled substances?</p>	<p>1 Q. What were those procedures, new</p> <p>2 procedures and policies?</p> <p>3 A. A lot around implementing</p> <p>4 upgraded camera systems, upgrading cages,</p> <p>5 upgrading picking directions.</p> <p>6 Q. Anything else?</p> <p>7 A. Those are the ones that come to</p> <p>8 mind.</p> <p>9 Q. When you say "upgrading picking</p> <p>10 directions," what do you mean by that?</p> <p>11 A. There were various pick machines</p> <p>12 that were in the distribution center. And in</p> <p>13 order to be -- have orders more accurate, they</p> <p>14 would develop upgrades to those machines so that</p> <p>15 the actual people that pick the product in the DC</p> <p>16 had a much easier job.</p> <p>17 Q. And you said it was possible that</p> <p>18 the logistics department implemented policies and</p> <p>19 procedures for the distribution centers that you</p> <p>20 were not aware of; is that right?</p> <p>21 A. That is correct.</p> <p>22 Q. Did the logistics department have</p> <p>23 to get your approval or -- let me phrase that a</p> <p>24 different way.</p>

<p style="text-align: right;">Page 82</p> <p>1 Did the logistics department have 2 to get government affairs department approval 3 before implementing a new policy or procedure at 4 the distribution centers? 5 MS. McENROE: Objection to form. 6 THE WITNESS: Typically they 7 would get approval, yes.</p> <p>8 BY MR. POWERS:</p> <p>9 Q. Was it required?</p> <p>10 MS. McENROE: Objection to form. 11 THE WITNESS: I don't know that 12 it was required. That was just our 13 process.</p> <p>14 BY MR. POWERS:</p> <p>15 Q. And Rite Aid distributed 16 controlled substances up until late 2014. 17 Correct?</p> <p>18 A. That's correct.</p> <p>19 Q. And the products that Rite Aid 20 distributed included hydrocodone combination 21 products. Right?</p> <p>22 A. That is correct.</p> <p>23 Q. When Rite Aid was distributing 24 controlled substances -- actually, let me back up</p>	<p style="text-align: right;">Page 84</p> <p>1 office? 2 MS. McENROE: Objection to form. 3 THE WITNESS: I read the SOPs and 4 reviewed the policies and procedures and 5 became aware of the different aspects of 6 the suspicious order monitoring program. 7 BY MR. POWERS: 8 Q. Did the suspicious order 9 monitoring program change at all between when you 10 first became aware of it and when Rite Aid 11 stopped distributing controlled substances? 12 MS. McENROE: Objection to form. 13 THE WITNESS: It did change. 14 BY MR. POWERS: 15 Q. How did it change? 16 A. We added another -- a component 17 of -- we had an asset protection that would 18 monitor part of our suspicious order monitoring 19 program. And we upgraded and updated asset 20 protection monitoring of our -- portion of our 21 suspicious order monitoring program. 22 Q. When did that happen? 23 A. I would say around 2010. 24 Q. And what was the nature of that</p>
<p style="text-align: right;">Page 83</p> <p>1 a second here. 2 When we're talking about Rite 3 Aid's distribution, can we agree that we're just 4 talking about the time period up until late 2014 5 when Rite Aid was distributing controlled 6 substances? 7 A. Yes. 8 Q. Okay. When Rite Aid was 9 distributing controlled substances, did Rite Aid 10 have a suspicious order monitoring program? 11 A. We did. 12 Q. When has that suspicious order 13 monitoring program been in place since? 14 A. The suspicious order monitoring 15 program has been in place since 1995, when -- 16 that I became aware of it. It could have been in 17 place prior to that, but... 18 Q. To the best of your knowledge, 19 the suspicious order monitoring program was in 20 place from 19 -- at least 1995 until 2014? 21 A. Yes. 22 Q. How did you familiarize yourself 23 with the suspicious order monitoring program when 24 you first started in the government affairs</p>	<p style="text-align: right;">Page 85</p> <p>1 upgrade? 2 A. We got a new computer system that 3 asset protection used to -- for the detection of 4 theft and diversion called NaviScript/NaviCase. 5 And that particular system had a series of key 6 performance indicators that were monitored by 7 asset protection. Those key performance 8 indicators were previously monitored by another 9 system, but this was just an upgraded system. 10 Q. What was the previous system that 11 monitored the KPIs? 12 A. That was an internal system in 13 asset protection. I don't know the name of it. 14 Q. And the NaviCase/NaviScript 15 system you just talked about, that was to monitor 16 theft of controlled substances. Right? 17 MS. McENROE: Objection, form. 18 THE WITNESS: That was to monitor 19 theft, but the other key performance 20 indicators also monitored ordering, cycle 21 counts. There were 90 KPIs. 22 BY MR. POWERS: 23 Q. What do you mean by cycle counts? 24 A. A cycle count is when a</p>

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<p>1 pharmacist in a store goes into the system and 2 says that we have -- they have 96 tablets on the 3 shelf. And what happens is the system says 4 they're supposed to have 100. And they count 5 down to 96 and say, okay, I now have 96 instead 6 of the 100.</p> <p>7 Q. Did the NaviScript/NaviCase 8 system keep track of the inventory at the 9 distribution centers?</p> <p>10 MS. McENROE: Objection to form.</p> <p>11 THE WITNESS: Can you phrase the 12 question differently?</p> <p>13 BY MR. POWERS:</p> <p>14 Q. It sounds to me like you were 15 talking about the NaviScript/NaviCase system with 16 regards to the individual stores. Right?</p> <p>17 A. Yes.</p> <p>18 Q. Did the NaviScript/NaviCase 19 system have any functionality with regards to the 20 distribution centers?</p> <p>21 MS. McENROE: Objection to form.</p> <p>22 THE WITNESS: The Navi system 23 from a distribution standpoint, it did 24 not maintain inventory, but it maintained</p>	<p>1 MS. McENROE: Objection to form.</p> <p>2 THE WITNESS: That was one of the 3 components.</p> <p>4 Oops, sorry.</p> <p>5 BY MR. POWERS:</p> <p>6 Q. And the thresholds were set at 7 5,000 dosage units, 5,000 dosage units for each 8 national drug code. Right?</p> <p>9 MS. McENROE: Objection to form.</p> <p>10 THE WITNESS: 5,000 dosage units 11 per each NDC per order.</p> <p>12 BY MR. POWERS:</p> <p>13 Q. Per order.</p> <p>14 And when you say "per order," 15 that's per order by each individual pharmacy.</p> <p>16 Right?</p> <p>17 A. Yes.</p> <p>18 Q. And you said the thresholds was 19 one component of the suspicious order monitoring 20 system.</p> <p>21 What were the other components?</p> <p>22 A. Another component was our 23 ordering process and an algorithm that was 24 established by Rite Aid to submit orders to the</p>
<p>1 order data from the distribution center 2 to the stores.</p> <p>3 BY MR. POWERS:</p> <p>4 Q. So the Navi -- you said the Navi 5 system could see what was being sent from the 6 distribution center to the individual stores; is 7 that right?</p> <p>8 A. Yes.</p> <p>9 Q. Do you know who designed Rite 10 Aid's suspicious order monitoring system 11 originally?</p> <p>12 A. I do not.</p> <p>13 Q. Did you personally make any 14 changes to the Rite Aid suspicious order 15 monitoring program?</p> <p>16 MS. McENROE: Objection to form.</p> <p>17 THE WITNESS: I don't recall 18 making any changes. From my perspective, 19 again, I may have reviewed some changes 20 that logistics were doing, but I myself, 21 I don't recall making any changes.</p> <p>22 BY MR. POWERS:</p> <p>23 Q. That suspicious order monitoring 24 system that Rite Aid had used thresholds. Right?</p>	<p>1 Page 87</p> <p>1 distribution center from our corporate office, 2 based on an individual store's movement.</p> <p>3 Q. The ordering process you're 4 talking about there, is that the auto 5 replenishment system?</p> <p>6 A. It is.</p> <p>7 Q. So the auto replenishment system 8 is part of your suspicious order monitoring 9 program?</p> <p>10 A. It is.</p> <p>11 Q. How long has the auto 12 replenishment system been in place for?</p> <p>13 A. As far back as I know, as I can 14 recall.</p> <p>15 Q. Even as your time as a 16 pharmacist?</p> <p>17 A. I don't know that.</p> <p>18 Q. But --</p> <p>19 A. Definitely since 1995.</p> <p>20 Q. How is the auto replenishment 21 system used in the Rite Aid suspicious order 22 monitoring system?</p> <p>23 MS. McENROE: Objection to form.</p> <p>24 THE WITNESS: It is utilized to</p>

<p style="text-align: right;">Page 90</p> <p>1 generate an order for an individual 2 store.</p> <p>3 From the suspicious order 4 monitoring process, we know our stores' 5 volume, we know our stores' dispensing, 6 and we're able to take [REDACTED] worth of 7 that dispensing data, place an order so 8 that there's the correct amount on hand, 9 put a slight override into that and 10 place -- provide that to our stores to 11 place an order.</p> <p>12 An order cannot go over that 13 algorithm coming out of -- from the -- 14 from the order going to the distribution 15 center.</p> <p>16 BY MR. POWERS:</p> <p>17 Q. How is the limit of the -- just 18 the auto replenishment system different than the 19 threshold limit?</p> <p>20 MS. McENROE: Objection to form.</p> <p>21 THE WITNESS: The automated 22 system is different in that it generates 23 an order based on that store's need.</p> <p>24 When you get to the threshold of</p>	<p style="text-align: right;">Page 92</p> <p>1 Q. How does the auto replenishment 2 system identify, report or not ship suspicious 3 orders?</p> <p>4 MS. McENROE: Objection to form.</p> <p>5 THE WITNESS: The auto 6 replenishment system does not generate a 7 suspicious order.</p> <p>8 BY MR. POWERS:</p> <p>9 Q. It is impossible for the auto 10 replenishment system to generate a suspicious 11 order; is that right?</p> <p>12 MS. McENROE: Objection to form.</p> <p>13 THE WITNESS: Based on the 14 algorithm and what is built into it, 15 there's not a suspicious order that's 16 generated by the order system.</p> <p>17 BY MR. POWERS:</p> <p>18 Q. My question, though, is, is it 19 impossible for the auto replenishment system to 20 generate a suspicious order?</p> <p>21 MS. McENROE: Objection to form, 22 asked and answered.</p> <p>23 THE WITNESS: Could you ask the 24 question again?</p>
<p style="text-align: right;">Page 91</p> <p>1 the 5,000 dosage units, that threshold 2 was established as another parameter as 3 part of the process. So it is quite 4 possible that an order could be placed 5 that met the algorithm that was for 5,100 6 tablets to be ordered and the threshold 7 system then at that point in time would 8 kick in and drop that down to 5,000 9 tablets.</p> <p>10 BY MR. POWERS:</p> <p>11 Q. But the 5,000 dosage unit 12 threshold, that's not in any electronic form, is 13 it?</p> <p>14 A. The 5,000 threshold is based on 15 the pickers at the distribution center.</p> <p>16 Q. So the auto replenishment system 17 could generate an order that was above the 5,000 18 unit thresholds. Right?</p> <p>19 A. That is correct.</p> <p>20 Q. And it would then fall on the 21 responsibility of the individuals in the 22 distribution center to then enforce that 5,000 23 dosage unit threshold. Right?</p> <p>24 A. That is correct.</p>	<p style="text-align: right;">Page 93</p> <p>1 BY MR. POWERS:</p> <p>2 Q. Sure.</p> <p>3 Is it impossible for the Rite Aid 4 auto replenishment system to generate a 5 suspicious order?</p> <p>6 MS. McENROE: Objection to form.</p> <p>7 THE WITNESS: Yes.</p> <p>8 BY MR. POWERS:</p> <p>9 Q. The auto replenishment system you 10 said was based on the need of the individual 11 pharmacy. Right?</p> <p>12 A. Correct.</p> <p>13 Q. What do you mean when you say by 14 need?</p> <p>15 A. Based on what is needed to 16 service our patient base, based on that store's 17 previous movement of a particular product.</p> <p>18 So you would have a drug. We [REDACTED] [REDACTED] [REDACTED]</p> <p>22 above the highest order that the store could 23 generate. That would go through the system and 24 be -- then would go to the store to be reviewed.</p>

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<p>1 Q. And the data you're talking 2 about, that is dispensing data. Right? 3 A. Dispensing data. 4 Q. And the dispensing data is simply 5 the amount of product that was sold at that 6 particular Rite Aid location. Right? 7 MS. McENROE: Objection to form. 8 THE WITNESS: The amount of 9 product that was dispensed to our 10 patients, yes.</p> <p>11 BY MR. POWERS:</p> <p>12 Q. So the auto replenishment system 13 doesn't look at who is writing the prescriptions 14 for those patients?</p> <p>15 MS. McENROE: Objection to form.</p> <p>16 THE WITNESS: It does not.</p> <p>17 BY MR. POWERS:</p> <p>18 Q. It doesn't look at the amount of 19 controlled substances as opposed to the amount of 20 noncontrolled substances at that Rite Aid 21 location. Right?</p> <p>22 MS. McENROE: Objection to form.</p> <p>23 THE WITNESS: It does not, but 24 the asset protection KPIs would look at</p>	<p>1 the prescription to make sure that it is for a 2 valid medical reason. 3 Q. What are the various elements of 4 the prescription to make sure that it is valid -- 5 to make sure that it is valid for a medical 6 reason?</p> <p>7 A. You need to know the patient, 8 does the pharmacist know the patient. You need 9 to know the prescriber, is the prescriber known 10 to the patient. You would look at, as far as a 11 red flag, what is the distance between the 12 patient and the prescriber.</p> <p>13 You would look at the original 14 hard copy prescription that's presented to you to 15 determine, does it look like it's a forgery. Is 16 there watermarks on it or something that would 17 identify it as a fraudulent prescription.</p> <p>18 You would look at the particular 19 type of prescription and prescriber to make sure 20 that it was a proper prescription. Then you 21 could -- and if all of those were met, then at 22 that point the pharmacist would make the decision 23 to dispense the prescription.</p> <p>24 Q. How about payment in cash, was</p>
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<p>1 that.</p> <p>2 BY MR. POWERS:</p> <p>3 Q. The auto replenishment system 4 doesn't do anything to determine the medical need 5 for the individual patients, does it?</p> <p>6 MS. McENROE: Object to form.</p> <p>7 THE WITNESS: It does not.</p> <p>8 Sorry.</p> <p>9 BY MR. POWERS:</p> <p>10 Q. Have you ever heard of the term 11 "red flags of diversion"?</p> <p>12 MS. McENROE: Objection to form.</p> <p>13 THE WITNESS: I've heard of the 14 term "red flags."</p> <p>15 BY MR. POWERS:</p> <p>16 Q. What is your understanding of the 17 term "red flags"?</p> <p>18 A. Red flags is when dispensing a 19 controlled substance prescription, a pharmacist 20 has a corresponding responsibility to make sure 21 that the prescription is dispensed for a valid 22 medical need in the course of the usual practice 23 of the prescription. The pharmacist is to review 24 the prescription and look at various elements of</p>	<p>1 that a red flag of diversion?</p> <p>2 A. It could be.</p> <p>3 Q. Does the auto replenishment 4 system look at any of the red flags of diversion 5 you just discussed in your previous answer?</p> <p>6 MS. McENROE: Objection to form.</p> <p>7 THE WITNESS: It does not.</p> <p>8 BY MR. POWERS:</p> <p>9 Q. So if those red flags of 10 diversion that we just talked about were 11 occurring, forged prescriptions, paying in cash, 12 things like that, the auto replenishment system 13 would not have any way of detecting that. Right?</p> <p>14 MS. McENROE: Objection to form.</p> <p>15 THE WITNESS: It would not.</p> <p>16 BY MR. POWERS:</p> <p>17 Q. You also talked about the auto [REDACTED]</p> <p>19 Is that just the dispensing data?</p> <p>20 A. Yes.</p> <p>21 Q. And that's just purely the volume 22 of product dispensed. Right?</p> <p>23 MS. McENROE: Objection to form.</p> <p>24 THE WITNESS: Yes. Dispensed to</p>

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<p>1 the patient.</p> <p>2 BY MR. POWERS:</p> <p>3 Q. The 5,000 dosage unit threshold</p> <p>4 that the distribution center -- well, let me back</p> <p>5 up there.</p> <p>6 The 5,000 dosage unit threshold</p> <p>7 was used by the distribution centers; right?</p> <p>8 A. That is correct.</p> <p>9 Q. And that 5,000 dosage unit</p> <p>10 threshold was the same for every distribution</p> <p>11 center?</p> <p>12 A. It was.</p> <p>13 Q. And it was -- that 5,000 dosage</p> <p>14 unit threshold was the same for every store that</p> <p>15 the distribution centers distributed to.</p> <p>16 Correct?</p> <p>17 MS. McENROE: Objection to form.</p> <p>18 THE WITNESS: It was.</p> <p>19 BY MR. POWERS:</p> <p>20 Q. Were there any exceptions to that</p> <p>21 5,000 dosage unit threshold?</p> <p>22 A. There were exceptions.</p> <p>23 Q. So besides some of the stores</p> <p>24 with exceptions, there was a generic threshold</p>	<p>1 A. DEA regulatory guidelines for the</p> <p>2 customer support center.</p> <p>3 Q. What is the customer support</p> <p>4 center?</p> <p>5 A. That is the distribution center.</p> <p>6 Q. So customer support center is</p> <p>7 synonymous with distribution center?</p> <p>8 A. Yes.</p> <p>9 Q. I'm going to ask you to turn to</p> <p>10 the section VI, "Excessive Order Monitoring."</p> <p>11 It's page VI-1 on the bottom there.</p> <p>12 MS. McENROE: It's a Bates number</p> <p>13 ending in 179.</p> <p>14 BY MR. POWERS:</p> <p>15 Q. Are you familiar with this page?</p> <p>16 A. I am.</p> <p>17 Q. When was the last time you saw</p> <p>18 this particular document in Exhibit 1?</p> <p>19 A. Yesterday or the day before.</p> <p>20 Q. What is the page we're looking at</p> <p>21 in Exhibit 1 ending in Bates 179?</p> <p>22 A. It's excessive order monitoring.</p> <p>23 Q. Is this a policy and procedure</p> <p>24 for the Rite Aid distribution centers?</p>
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<p>1 limit for all Rite Aid stores?</p> <p>2 MS. McENROE: Objection to form.</p> <p>3 THE WITNESS: Yes. 5,000 per</p> <p>4 NDC.</p> <p>5 - - -</p> <p>6 (Deposition Exhibit No. Rite</p> <p>7 Aid-Hart-1, Distribution/Customer Support</p> <p>8 Center, DEA Regulatory Guidelines,</p> <p>9 Policy, Bates stamped</p> <p>10 Rite_Aid_OMDL_0046157 through</p> <p>11 Rite_Aid_OMDL_0046226, was marked for</p> <p>12 identification.)</p> <p>13 - - -</p> <p>14 BY MR. POWERS:</p> <p>15 Q. I'm going to hand what's been</p> <p>16 marked as Rite Aid-Hart Exhibit 1. It's a</p> <p>17 document, somewhat lengthy, but I'm going to</p> <p>18 direct your attention to a particular page in it.</p> <p>19 The Bates number on the document is</p> <p>20 Rite_Aid_OMDL_0046157 through 46226.</p> <p>21 Are you familiar with the</p> <p>22 document in Hart Exhibit 1?</p> <p>23 A. Yes.</p> <p>24 Q. What is that document?</p>	<p>1 A. It doesn't say it on that page,</p> <p>2 but it says it on -- well, it doesn't say policy</p> <p>3 and procedure.</p> <p>4 Q. I'm not asking what the page</p> <p>5 says. I'm asking your own explanation of it.</p> <p>6 A. Oh, yes.</p> <p>7 Q. So just to be clear, the page</p> <p>8 reflected in Exhibit 1 entitled "Excessive Order</p> <p>9 Monitoring" is a policy and procedure regarding</p> <p>10 excessive order monitoring for the Rite Aid</p> <p>11 distribution centers; is that right?</p> <p>12 A. Yes.</p> <p>13 Q. Would this policy and procedure</p> <p>14 apply to all Rite Aid distribution centers?</p> <p>15 A. Yes.</p> <p>16 Q. Is this particular policy and</p> <p>17 procedure a part of Rite Aid's suspicious order</p> <p>18 monitoring program?</p> <p>19 A. Yes.</p> <p>20 Q. Do you know who wrote this</p> <p>21 document?</p> <p>22 A. I do not.</p> <p>23 Q. Did you have any input into what</p> <p>24 is spelled out on page ending in 179 of</p>

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<p>1 Exhibit 1?</p> <p>2 A. I'm sure I did.</p> <p>3 Q. Do you know when you did that,</p> <p>4 when you had your input?</p> <p>5 A. I don't remember.</p> <p>6 Q. Was this the policy and procedure</p> <p>7 regarding excessive order monitoring when you</p> <p>8 first started in the government affairs office in</p> <p>9 1995?</p> <p>10 A. I believe so.</p> <p>11 Q. Did this policy and procedure</p> <p>12 here on the page ending 46179 ever change during</p> <p>13 your time in the government affairs office at</p> <p>14 Rite Aid?</p> <p>15 A. Yes. This is not the most</p> <p>16 current policy.</p> <p>17 Q. How did the policy change from</p> <p>18 when it first started in 1995?</p> <p>19 A. There were some tweaking of it</p> <p>20 along the way, words here and words there. This</p> <p>21 particular page I believe was changed to</p> <p>22 suspicious order monitoring from excessive order</p> <p>23 monitoring.</p> <p>24 Q. Was that the only change that was</p>	<p>1 but it wasn't typically my document.</p> <p>2 Q. What do you mean by "my</p> <p>3 document"?</p> <p>4 A. I didn't -- I wasn't the author</p> <p>5 of it, so...</p> <p>6 Q. Do you know how the document in</p> <p>7 Exhibit 1 was used at the distribution centers?</p> <p>8 MS. McENROE: Objection to form.</p> <p>9 THE WITNESS: I believe that it</p> <p>10 was as part of the operating procedures.</p> <p>11 And it was maintained in the drug cage,</p> <p>12 and individuals were trained on the</p> <p>13 suspicious order monitoring process.</p> <p>14 BY MR. POWERS:</p> <p>15 Q. Did you have any role in the</p> <p>16 training of individuals at distribution centers</p> <p>17 on the procedures outlined here on page 46179?</p> <p>18 A. I have trained the DEA</p> <p>19 coordinators at the distribution centers. The</p> <p>20 section of Suspicious Order Monitoring typically</p> <p>21 was not one that I would cover.</p> <p>22 Q. Who would cover that?</p> <p>23 A. Again, either -- the logistics</p> <p>24 person who was their superior.</p>
<p>1 made on this particular policy?</p> <p>2 A. I don't remember.</p> <p>3 Q. But it's the only change you can</p> <p>4 recall right now. Right?</p> <p>5 A. Yes.</p> <p>6 MS. McENROE: Just let him finish</p> <p>7 his questions.</p> <p>8 THE WITNESS: Oh, I'm sorry.</p> <p>9 Just hit me.</p> <p>10 BY MR. POWERS:</p> <p>11 Q. Who would have a copy of the</p> <p>12 document in Exhibit 1 as a whole?</p> <p>13 MS. McENROE: Objection to form.</p> <p>14 THE WITNESS: The logistics</p> <p>15 person at the corporate office. And</p> <p>16 there would be a copy at each of the</p> <p>17 distribution centers.</p> <p>18 BY MR. POWERS:</p> <p>19 Q. And when you say a copy, do you</p> <p>20 mean a hard copy like in paper form?</p> <p>21 A. I would believe so, yes.</p> <p>22 Q. Did you have a copy of the</p> <p>23 document in Exhibit 1?</p> <p>24 A. I may have had one in my file,</p>	<p>1 Page 103</p> <p>1 Q. Did you train anyone else besides</p> <p>2 distribution center employees on Rite Aid's</p> <p>3 excessive or suspicious order monitoring</p> <p>4 procedures?</p> <p>5 A. Not that I recall.</p> <p>6 Q. In the paragraph number 1 there</p> <p>7 on page 46179, the first sentence says, "All</p> <p>8 orders containing controlled substances are</p> <p>9 reviewed and verified for order quantity and size</p> <p>10 to not exceed the determined order history</p> <p>11 threshold."</p> <p>12 Do you see that?</p> <p>13 A. I do.</p> <p>14 Q. Is that the 5,000 dosage unit</p> <p>15 threshold we were talking about earlier?</p> <p>16 A. That is not.</p> <p>17 Q. What is this threshold here?</p> <p>18 A. Those -- the review and the</p> <p>19 verified order quantity is part of the algorithm</p> <p>20 to determine what the order should be.</p> <p>21 Q. That's the auto replenishment</p> <p>22 system?</p> <p>23 A. Auto replenishment.</p> <p>24 Q. Who is doing the reviewing and</p>

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<p>1 verifying referred to in that sentence I just 2 read?</p> <p>3 A. I'm going to backtrack and say I 4 believe that you were correct, and that is the 5 individuals that are in the cage. And then if it 6 goes over the 5,000, it is going to the 7 department manager.</p> <p>8 Q. So just so I have a clear record 9 on this, the first sentence of paragraph 1 on 10 this page refers to an order history threshold. 11 And your understanding, your 12 correct understanding is that that is in fact the 13 5,000 dosage unit threshold. Right?</p> <p>14 A. Yes.</p> <p>15 Q. So who reviews and verifies the 16 order quantity and size referred to there in the 17 first sentence of paragraph 1?</p> <p>18 A. The individuals that do the 19 picking at the distribution center.</p> <p>20 Q. Do you have any role in reviewing 21 or verifying the order quantities?</p> <p>22 A. I do not.</p> <p>23 Q. Does anyone in the government 24 affairs office?</p>	<p>1 MS. McENROE: Objection to form. 2 THE WITNESS: They would rely on 3 the auto replenishment system to 4 determine if the quantity of the order 5 went through the auto replenishment 6 system. They would verify with the 7 pharmacist at the pharmacy if the order 8 was correct. So they would do a -- they 9 would perform something to that effect.</p> <p>10 BY MR. POWERS:</p> <p>11 Q. Is there any written policy or 12 procedure about how they are supposed to perform 13 this review to determine the legitimacy of an 14 order?</p> <p>15 MS. McENROE: Objection to form. 16 THE WITNESS: There is a policy.</p> <p>17 BY MR. POWERS:</p> <p>18 Q. What is that policy?</p> <p>19 A. The policy is there is a log 20 maintained if there's an order that is -- that 21 there is -- to determine the legitimacy of the 22 order, and the log is maintained in the cage of 23 the distribution center.</p> <p>24 Q. Is there a written policy that</p>
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<p>1 A. We do not.</p> <p>2 Q. Then it says in the second 3 sentence there, "Any order exceeding the 4 threshold is immediately forwarded to the 5 department manager for further investigation." 6 Do you see that?</p> <p>7 A. I do.</p> <p>8 Q. Who would the department manager 9 in this sentence refer to?</p> <p>10 A. I would believe typically it 11 would be the DEA coordinator.</p> <p>12 Q. And that would be an individual 13 at the distribution center. Right?</p> <p>14 A. That would be, yes.</p> <p>15 Q. Paragraph 3, it says, in the 16 first sentence, "A review is performed to 17 determine the legitimacy of the order." 18 Do you see that?</p> <p>19 A. I do.</p> <p>20 Q. Who performs that review?</p> <p>21 A. The distribution center 22 personnel.</p> <p>23 Q. And what are they relying on to 24 determine the legitimacy of the order?</p>	<p>1 spells out that that log is supposed to be 2 maintained in the distribution center?</p> <p>3 A. I believe so, yes.</p> <p>4 Q. Besides the log, any other 5 written policies about how to determine the 6 legitimacy of an order?</p> <p>7 A. Not to the best of my knowledge.</p> <p>8 Q. And we're talking about the 9 legitimacy of the order.</p> <p>10 What does the legitimacy of the 11 order mean here?</p> <p>12 MS. McENROE: Objection to form. 13 THE WITNESS: If the order was 14 definitely needed by the pharmacy.</p> <p>15 BY MR. POWERS:</p> <p>16 Q. And when you say "needed by the 17 pharmacy," that's purely referring to the volume 18 needed of the prescription. Right?</p> <p>19 MS. McENROE: Objection to form. 20 THE WITNESS: That is correct.</p> <p>21 BY MR. POWERS:</p> <p>22 Q. There's no effort here when 23 determining legitimacy of the order to 24 investigate those red flags of diversion we</p>

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<p>1 talked about before. Right?</p> <p>2 MS. McENROE: Objection to form.</p> <p>3 THE WITNESS: There is none.</p> <p>4 BY MR. POWERS:</p> <p>5 Q. The next sentence says,</p> <p>6 "Appropriate" -- in paragraph 3 says,</p> <p>7 "Appropriate documentation of the review is</p> <p>8 maintained on file."</p> <p>9 Do you see that?</p> <p>10 A. I do.</p> <p>11 Q. What appropriate documentation is</p> <p>12 maintained on file?</p> <p>13 A. That would be the log that was</p> <p>14 maintained -- that was kept after the phone call</p> <p>15 was made.</p> <p>16 Q. Anything else?</p> <p>17 A. That would be it.</p> <p>18 Q. Moving on to paragraph 4, the</p> <p>19 first -- I guess the only sentence, it says, "Any</p> <p>20 order which is determined to be suspicious will</p> <p>21 be immediately reported to the corporate office,</p> <p>22 who will notify the local DEA Field Division</p> <p>23 Office of the Administration."</p> <p>24 Do you see that?</p>	<p>1 or procedures about how the distribution center</p> <p>2 was supposed to determine whether an order was</p> <p>3 suspicious?</p> <p>4 MS. McENROE: Objection to form.</p> <p>5 THE WITNESS: There are policies</p> <p>6 and procedures to determine a suspicious</p> <p>7 order, yes.</p> <p>8 BY MR. POWERS:</p> <p>9 Q. You were talking about the</p> <p>10 distribution center looking at the history of the</p> <p>11 order.</p> <p>12 A. Uh-huh.</p> <p>13 Q. Was there any guidance given to</p> <p>14 the distribution centers to determine what would</p> <p>15 be used to determine, regarding order history,</p> <p>16 what was suspicious?</p> <p>17 MS. McENROE: Objection, form.</p> <p>18 THE WITNESS: Can you repeat the</p> <p>19 question?</p> <p>20 BY MR. POWERS:</p> <p>21 Q. Sure.</p> <p>22 You said the distribution center</p> <p>23 employees knew the stores they were picking for.</p> <p>24 Right?</p>
Page 111	Page 113
<p>1 A. I do.</p> <p>2 Q. Is the distribution center the</p> <p>3 one who is determining whether the order is</p> <p>4 suspicious or not?</p> <p>5 MS. McENROE: Objection to form.</p> <p>6 THE WITNESS: They are.</p> <p>7 BY MR. POWERS:</p> <p>8 Q. How do they determine whether the</p> <p>9 order is suspicious or not?</p> <p>10 MS. McENROE: Objection, form.</p> <p>11 THE WITNESS: They would look at</p> <p>12 the quantity of the order. They would</p> <p>13 look at the -- at the distribution</p> <p>14 center, they know the previous store's</p> <p>15 history from picking the order every</p> <p>16 week. They may see a store that has</p> <p>17 ordered five of a particular item. And</p> <p>18 then one week off, there could be 15</p> <p>19 ordered. So at that point they would</p> <p>20 say, this store always gets five. Let's</p> <p>21 call the store and determine if they</p> <p>22 really wanted 15.</p> <p>23 BY MR. POWERS:</p> <p>24 Q. Were there any written policies</p>	<p>1 A. Correct.</p> <p>2 Q. And they gained that knowledge</p> <p>3 through picking for those stores periodically</p> <p>4 during their jobs. Right?</p> <p>5 MS. McENROE: Objection to form.</p> <p>6 THE WITNESS: Correct. They pick</p> <p>7 a store once a week.</p> <p>8 BY MR. POWERS:</p> <p>9 Q. So besides just being the one who</p> <p>10 picks that store every week, was there any way --</p> <p>11 any other way that the distribution center</p> <p>12 employees were supposed to determine whether or</p> <p>13 not an order was suspicious?</p> <p>14 MS. McENROE: Objection to form.</p> <p>15 THE WITNESS: To the best of my</p> <p>16 knowledge, no.</p> <p>17 BY MR. POWERS:</p> <p>18 Q. And in paragraph 4 here, it says,</p> <p>19 "Any order which is determined to be suspicious</p> <p>20 will be immediately reported to the corporate</p> <p>21 office."</p> <p>22 Who at the corporate office would</p> <p>23 the suspicious orders be reported to?</p> <p>24 A. That would be me.</p>

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<p>1 Q. Were any suspicious orders ever 2 reported to you at the corporate office? 3 A. There were none reported to me. 4 Q. And to be clear, you never 5 received a report of a suspicious order your 6 entire time working in the corporate office from 7 1995 through 2018. Correct? 8 A. I did not. 9 Q. Going down to paragraph 5, it 10 says, if a suspicious order is reported to 11 corporate, the corporate government affairs will 12 determine whether to "ship" or "do not ship." 13 Do you see that? 14 A. I do. 15 Q. And this is the same corporate 16 office that we just referred to, the government 17 affairs office. Right? 18 A. That is correct. 19 Q. So that would be you? 20 A. That would be me. 21 Q. How would you make the 22 determination of whether to ship or not ship? 23 A. There would be a number of 24 factors that would come into play. The very</p>	<p>1 factors based on? 2 A. Based on my knowledge of the 3 industry, based on my years of experience having 4 dealt with the DEA for a period of -- for a long 5 period of time, and knowing how to review a store 6 as far as its book of business, going way back to 7 even my days as the pharmacy district manager in 8 the Baltimore market. 9 Q. But to be clear, you never had to 10 make the decision whether to ship or not ship 11 because you never received any report of a 12 suspicious order. Right? 13 A. That is correct. 14 Q. And going down to paragraph 6, it 15 says, "All discussions, investigations and 16 reports will be maintained in the file designated 17 'Suspicious Orders.'" 18 Do you see that? 19 A. I do. 20 Q. Am I correct to assume that there 21 was no file designated suspicious orders because 22 there were no suspicious orders? 23 A. You are correct. 24 Q. Who would keep that file, if</p>
<p style="text-align: center;">Page 115</p> <p>1 first factor that I would look at is if it was an 2 auto ship order, that it came through the 3 algorithm and that was what the algorithm 4 provided. That would be a key one. 5 A second one would be to look at 6 the size of the order, to determine if the 7 unusual size of it was due to something at the 8 pharmacy that was placing the order, if there was 9 something unusual happening at that pharmacy. 10 Q. Anything else you would look at? 11 A. That would be it. 12 Q. Was there any written policy or 13 procedure about how to make that decision about 14 whether to ship or not ship? 15 A. To the best of my knowledge, no. 16 Q. So the factors you just testified 17 about that you would use to determine whether to 18 ship or not ship, those were just ones that you 19 yourself personally came up with. Right? 20 A. Yes. 21 MS. McENROE: Objection to form. 22 THE WITNESS: Sorry. 23 BY MR. POWERS: 24 Q. What were those based on, those</p>	<p style="text-align: center;">Page 117</p> <p>1 there was one? 2 A. Our office would maintain a file. 3 And there would be a file maintained at the 4 individual distribution center. 5 Q. How did you ensure that the 6 policy we just talked about in Exhibit 1 7 reflected on page 46179 was followed at the 8 distribution centers? 9 MS. McENROE: Objection to form. 10 THE WITNESS: The distribution 11 center has constant monitoring. They 12 have audits completed by our internal 13 audit group and by asset protection, and 14 by logistics and transportation, where 15 there are individual groups that go into 16 each of the distribution centers once a 17 year on behalf of Rite Aid and have a 18 checklist of compliance to review at the 19 distribution centers. 20 So there is a review done to make 21 sure that the processes are being 22 followed related to suspicious orders, 23 security. All of the policies and 24 procedures are reviewed and there is a</p>

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<p>1 specific checklist completed.</p> <p>2 BY MR. POWERS:</p> <p>3 Q. Did you personally have any</p> <p>4 responsibility for ensuring compliance with the</p> <p>5 excessive or suspicious order monitoring</p> <p>6 procedure?</p> <p>7 MS. McENROE: Objection to form.</p> <p>8 THE WITNESS: Those particular</p> <p>9 checklists were, again, completed by</p> <p>10 logistics.</p> <p>11 BY MR. POWERS:</p> <p>12 Q. But my question is, did you have</p> <p>13 any personal responsibility for ensuring the</p> <p>14 distribution center compliance with the excessive</p> <p>15 order monitoring or suspicious order monitoring</p> <p>16 procedure?</p> <p>17 MS. McENROE: Objection to form.</p> <p>18 THE WITNESS: I had</p> <p>19 responsibility for reviewing the policies</p> <p>20 and procedures and the checklists and</p> <p>21 that, but the sole responsibility as far</p> <p>22 as like the monitoring and if there was</p> <p>23 something that needed to be corrected or</p> <p>24 something along those lines, that would</p>	<p>1 - - -</p> <p>2 (Deposition Exhibit No. Rite</p> <p>3 Aid-Hart-2, Rite Aid Distribution Center</p> <p>4 DEA Regulatory Guidelines,</p> <p>5 Rite_Aid_OMDL_0014804 through</p> <p>6 Rite_Aid_OMDL_0014874, was marked for</p> <p>7 identification.)</p> <p>8 - - -</p> <p>9 THE WITNESS: Thank you.</p> <p>10 BY MR. POWERS:</p> <p>11 Q. I'm going to direct your</p> <p>12 attention specifically to the page Rite</p> <p>13 Aid_OMDL_0014828.</p> <p>14 This page here, 14828 in</p> <p>15 Exhibit 2, appears to be a similar document and</p> <p>16 page to the one we were just looking at in</p> <p>17 Exhibit 1. Right?</p> <p>18 MS. McENROE: Objection to form.</p> <p>19 THE WITNESS: It does.</p> <p>20 BY MR. POWERS:</p> <p>21 Q. And I don't know if the trial</p> <p>22 tech could actually pull up Exhibit 1 and put it</p> <p>23 side to side on the monitor in front of you with</p> <p>24 the page in Exhibit 2.</p>
<p>1 rest with logistics.</p> <p>2 MS. McENROE: Hey, Will, we've</p> <p>3 been going about an hour. When you find</p> <p>4 a good time for a break, that would be</p> <p>5 appreciated.</p> <p>6 MR. POWERS: Yeah, we can take a</p> <p>7 break now. That's fine.</p> <p>8 MS. McENROE: Great. Thank you.</p> <p>9 THE VIDEOGRAPHER: Going off the</p> <p>10 record at 11:41 a.m.</p> <p>11 - - -</p> <p>12 (A recess was taken from</p> <p>13 11:41 a.m. to 11:58 a.m.)</p> <p>14 - - -</p> <p>15 THE VIDEOGRAPHER: We're back on</p> <p>16 the record at 11:58 a.m.</p> <p>17 BY MR. POWERS:</p> <p>18 Q. Welcome back, Ms. Hart. I'm</p> <p>19 going to hand you what's been marked as Rite</p> <p>20 Aid-Hart Exhibit 2. It's, once again, a large</p> <p>21 document, but I'm only going to talk to you about</p> <p>22 one page. It is Bates number</p> <p>23 Rite_Aid_OMDL_0014804 through 14873. Take a look</p> <p>24 at that.</p>	<p>1 Page 119</p> <p>2 MS. McENROE: And for the record,</p> <p>3 I'm just setting the witness up with the</p> <p>4 hard copy versions of Exhibits 1 and 2.</p> <p>5 MR. POWERS: Sure, yes.</p> <p>6 BY MR. POWERS:</p> <p>7 Q. So I'm going to refer to you in</p> <p>8 hard copy between the two pages we've been</p> <p>9 talking about, page 46179 in Exhibit 1 and page</p> <p>10 14828 in Exhibit 2.</p> <p>11 Do you have those pages in front</p> <p>12 of you?</p> <p>13 A. I don't think this is the right</p> <p>14 page.</p> <p>15 Yes.</p> <p>16 Q. With these documents side to</p> <p>17 side, can you see if there are any other changes</p> <p>18 to this policy besides the title changing from</p> <p>19 Excessive Order Monitoring to Suspicious Order</p> <p>20 Monitoring?</p> <p>21 MS. McENROE: Objection to form.</p> <p>22 THE WITNESS: It appears as if</p> <p>23 number 5 has changed.</p> <p>24 BY MR. POWERS:</p> <p>Q. What is the nature of the change</p>

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<p>1 in number 5?</p> <p>2 A. Number 5 changed to, "If a 3 suspicious order is reported to Corporate, the 4 Corporate Government Affairs will determine 5 whether to 'ship' or 'do not ship.'"</p> <p>6 Q. I understand that the text is 7 different.</p> <p>8 Is the procedure that is to be 9 followed any different?</p> <p>10 MS. McENROE: Objection to form.</p> <p>11 THE WITNESS: It remains the 12 same.</p> <p>13 BY MR. POWERS:</p> <p>14 Q. Besides the wording of paragraph 15 5 and the title of the document, any other 16 changes to the policy and procedure regarding 17 suspicious order monitoring?</p> <p>18 A. I don't see any.</p> <p>19 Q. Do you know who made the decision 20 to change this policy from being entitled 21 "Excessive Order Monitoring" to "Suspicious Order 22 Monitoring"?</p> <p>23 A. I believe it would have been 24 someone in logistics.</p>	<p>1 this together and redid the front page and 2 information like that.</p> <p>3 Q. Did Chris Belli consult you about 4 whether he should change the policy name from 5 excessive order monitoring to suspicious order 6 monitoring?</p> <p>7 A. I don't recall.</p> <p>8 Q. You can put those exhibits to the 9 side.</p> <p>10 I'm going to hand you what's been 11 marked as Hart Exhibit 3. The Bates number on 12 this exhibit is Rite_Aid_OMDL_0015079 through 13 15081.</p> <p>14 - - -</p> <p>15 (Deposition Exhibit No. Rite 16 Aid-Hart-3, Controlled Drug Above Average 17 Order Monitoring Program, Bates stamped 18 Rite_Aid_OMDL_0015079 through 19 Rite_Aid_OMDL_0015081, was marked for 20 identification.)</p> <p>21 - - -</p> <p>22 BY MR. POWERS:</p> <p>23 Q. Take a look at that.</p> <p>24 A. (Reviewing document.)</p>
<p>1 Q. Any idea who in logistics?</p> <p>2 A. Perhaps Chris Belli.</p> <p>3 Q. Do you know when the title of 4 this document was changed from "Excessive Order 5 Monitoring" to "Suspicious Order Monitoring"?</p> <p>6 A. I do not.</p> <p>7 Q. Do you know why it was changed 8 from "Excessive Order Monitoring" to "Suspicious 9 Order Monitoring"?</p> <p>10 A. I do not know.</p> <p>11 Q. Who would know that?</p> <p>12 A. Chris Belli.</p> <p>13 MS. McENROE: Objection to form.</p> <p>14 BY MR. POWERS:</p> <p>15 Q. Anyone else?</p> <p>16 A. I believe it would rest with 17 logistics.</p> <p>18 Q. And you believe it would have 19 been during the timeframe Chris Belli was working 20 in logistics?</p> <p>21 A. Yes.</p> <p>22 Q. What is that knowledge based on?</p> <p>23 A. Some discussion that I remember 24 having at the time when Chris was putting it --</p>	<p>1 Q. Are you familiar with the 2 document in Exhibit 3?</p> <p>3 A. I am.</p> <p>4 Q. What is the document in 5 Exhibit 3?</p> <p>6 A. It is a sign-off sheet for the 7 controlled drug above average order monitoring 8 program.</p> <p>9 Q. When was the last time you saw 10 the document reflected in Exhibit 3?</p> <p>11 A. Yesterday or the day before.</p> <p>12 Q. How was the document in Exhibit 3 13 used at Rite Aid?</p> <p>14 MS. McENROE: Objection to form.</p> <p>15 THE WITNESS: It was used to 16 document that the individuals that were 17 in the controlled drug cage picking 18 orders understood the above average order 19 monitoring program and what was required 20 of them when picking controlled 21 substances.</p> <p>22 BY MR. POWERS:</p> <p>23 Q. Was this particular document in 24 Exhibit 3 used at every distribution center?</p>

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<p>1 MS. McENROE: Objection to form.</p> <p>2 THE WITNESS: This or a form of</p> <p>3 it, I believe.</p> <p>4 BY MR. POWERS:</p> <p>5 Q. So the distribution centers used</p> <p>6 different documents, different written documents,</p> <p>7 to spell out the above average order monitoring</p> <p>8 program procedures?</p> <p>9 MS. McENROE: Objection, form.</p> <p>10 BY MR. POWERS:</p> <p>11 Q. Is that correct?</p> <p>12 A. If you look at this particular</p> <p>13 form, on the bottom here, across to the revision,</p> <p>14 this says, "D.C. 10 DEA," with the DEA number on</p> <p>15 there. So that leads me to believe this was the</p> <p>16 form that was used in the Perryman Distribution</p> <p>17 Center.</p> <p>18 Q. But this was not the form that</p> <p>19 was used in other distribution centers besides</p> <p>20 Perryman to explain the above average order</p> <p>21 monitoring program?</p> <p>22 MS. McENROE: Objection to form.</p> <p>23 BY MR. POWERS:</p> <p>24 Q. Is that right?</p>	<p>1 THE WITNESS: I believe it's in</p> <p>2 the standard operating procedures as</p> <p>3 well.</p> <p>4 BY MR. POWERS:</p> <p>5 Q. Is that a separate document than</p> <p>6 the ones we looked at in Exhibit 1 and 2?</p> <p>7 A. I think it would be 1 or 2, in 1</p> <p>8 or 2.</p> <p>9 Q. Just so I'm perfectly clear, you</p> <p>10 think that the procedure that is reflected in</p> <p>11 Exhibit 3 about what to do when an order comes in</p> <p>12 above average is also reflected in the SOPs in</p> <p>13 Exhibit 1 and 2; is that right?</p> <p>14 MS. McENROE: Objection to form.</p> <p>15 THE WITNESS: I honestly don't</p> <p>16 know.</p> <p>17 BY MR. POWERS:</p> <p>18 Q. Looking at Exhibit 3, it says in</p> <p>19 the first -- the first paragraph in all caps</p> <p>20 there, "Any person who picks a controlled drug</p> <p>21 order is responsible for documenting all</p> <p>22 requested orders that are above the posted</p> <p>23 threshold."</p> <p>24 Do you see that?</p>
<p>1 A. I could not say for certain.</p> <p>2 Q. Did you review the document in</p> <p>3 Exhibit 3 while it was being drafted?</p> <p>4 A. I believe so.</p> <p>5 Q. Did you provide feedback about</p> <p>6 what should be included in this procedure</p> <p>7 reflected in Exhibit 3?</p> <p>8 A. I would say yes.</p> <p>9 Q. What feedback did you provide?</p> <p>10 A. I probably would have tweaked the</p> <p>11 language a little bit, depending on, you know,</p> <p>12 what the wording was.</p> <p>13 Q. And it looks to me like this</p> <p>14 Exhibit 3 outlines a procedure about what a</p> <p>15 distribution center employee is supposed to do</p> <p>16 when an order comes in over threshold. Right?</p> <p>17 MS. McENROE: Objection to form.</p> <p>18 THE WITNESS: Correct.</p> <p>19 BY MR. POWERS:</p> <p>20 Q. Besides the document reflected in</p> <p>21 Exhibit 3, is the procedure about what to do when</p> <p>22 an order comes in over threshold written down any</p> <p>23 other place?</p> <p>24 MS. McENROE: Objection to form.</p>	<p>1 A. I do.</p> <p>2 Q. What does that mean?</p> <p>3 A. That's making the picker that's</p> <p>4 in the cage picking responsible for documenting</p> <p>5 any orders that are above the posted threshold.</p> <p>6 So that would be the</p> <p>7 Pick-to-late, when we talk about the 5,000</p> <p>8 threshold that we talked about earlier, and then</p> <p>9 if there was any other threshold above 5,000</p> <p>10 dosage units that was approved by government</p> <p>11 affairs that were in place at the distribution</p> <p>12 center.</p> <p>13 Q. So the threshold referred to in</p> <p>14 that first all caps paragraph in Exhibit 3 is the</p> <p>15 5,000 dosage unit threshold. Right?</p> <p>16 A. Yes.</p> <p>17 Q. And it looks like it says that</p> <p>18 the orders above threshold should be documented.</p> <p>19 Right?</p> <p>20 A. Correct.</p> <p>21 Q. And they're documented in the</p> <p>22 above average order monitoring log; is that</p> <p>23 right?</p> <p>24 A. Correct.</p>
Page 127	Page 129

1 Q. In the third paragraph, the	Page 130	Page 132
2 second paragraph that is not in all caps, it		
[REDACTED]		
[REDACTED]		
[REDACTED]		
6 Do you see that?		
7 A. I do.		
8 Q. And it looks like it's referring		
9 to the amount as the threshold. Right?		
10 MS. McENROE: Objection to form.		
11 THE WITNESS: Can you repeat the		
12 question?		
13 BY MR. POWERS:		
14 Q. Sure. I'll back up a little bit.		
15 A. Okay.		
16 Q. In the first sentence of the		
17 paragraph we're looking at there, it says, "If		
18 the store verifies the quantity is correct the		
19 associate notifies them that we cannot send more		
20 than 50 units."		
21 Do you see that?		
22 A. I do.		
23 Q. Then the next sentence says,		
24 [REDACTED]		
Page 131		
1 [REDACTED]		
2 Do you see that?		
3 A. I do.		
4 Q. So it's -- the 50-unit amount		
5 referred to there in those two sentences is the		
6 same as the 5,000 dosage unit threshold. Right?		
7 A. The 50 units is the same, yes.		
8 [REDACTED]		
[REDACTED]		
[REDACTED]		
[REDACTED]		
[REDACTED]		
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Page 134	Page 136
1 BY MR. POWERS: 2 Q. I'll break it down a little bit. 3 A. Okay. 4 Q. So the 5,000 dosage unit 5 threshold never changed. Right? 6 A. Right. 7 Q. But this Exhibit 3 here is saying 8 [REDACTED] [REDACTED] [REDACTED] [REDACTED] 13 A. This document is wrong. 14 Q. So the distribution center is 15 relying on this document, Exhibit 3, but it's 16 wrong; is that right? 17 A. That's correct. 18 Q. Did you ever look into or 19 investigate in any way why the threshold was set 20 at 5,000 dosage units when you started in the 21 government affairs office? 22 A. I did not. 23 Q. Did you ever look into or 24 investigate in any way why the threshold was	1 first. Right? 2 A. Correct. 3 Q. And when they call the pharmacy, 4 it would be to ask if the pharmacy truly wanted 5 that 8,000 dosage unit amount. Right? 6 A. Correct. 7 Q. And if the pharmacy said, yes, we 8 want that full amount, the distribution center 9 employee was then to say, you can't have that 10 full amount. Right? 11 A. That's correct. 12 Q. And the distribution center 13 employee would say, you can only have the 14 threshold amount, which was 5,000. Right? 15 A. That's correct. 16 Q. And so then the distribution 17 center would then confirm that the pharmacy still 18 wanted that full 5,000 amount. Right? 19 A. Yes. 20 Q. And then the distribution center 21 would fill or partially fill that original order 22 for only up to the threshold amount. Right? 23 MS. McENROE: Objection to form. 24 THE WITNESS: That's correct.
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1 5,000 dosage units during your entire time at 2 Rite Aid? 3 A. I did not. 4 Q. Did anyone, to the best of your 5 knowledge, investigate why the threshold was set 6 at 5,000 dosage units during your time at Rite 7 Aid? 8 A. I do not know if anybody did. 9 Q. And the procedure outlined in 10 Exhibit 3 here calls for the distribution center 11 employees to short an order if the order comes in 12 above the threshold. Right? 13 A. Correct. 14 Q. What does that mean? 15 A. It means takes the order down to 16 the 5,000 dosage units. 17 Q. Is that also called cutting an 18 order? 19 MS. McENROE: Objection to form. 20 THE WITNESS: It could be. 21 BY MR. POWERS: 22 Q. So if an order comes in, let's 23 say at 8,000 dosage units, the distribution 24 center procedure would be to call the pharmacy	1 BY MR. POWERS: 2 Q. And sometimes when the 3 distribution center was filling orders from 4 pharmacies after business hours, they would not 5 be able to call the pharmacy. Right? 6 A. That is correct. 7 Q. In that instance, the 8 distribution center would just go ahead and cut 9 the order down to the threshold amount and ship 10 it at that cut amount. Right? 11 MS. McENROE: Objection to form. 12 THE WITNESS: That is correct. 13 BY MR. POWERS: 14 Q. And that blanket 5,000-unit -- 15 5,000 dosage unit threshold is for every Rite Aid 16 store. Right? 17 MS. McENROE: Objection to form. 18 THE WITNESS: The 5,000 blanket 19 is for every Rite Aid store except for 20 the few stores that have the exception. 21 BY MR. POWERS: 22 Q. And that 5,000 dosage unit 23 threshold doesn't take into account any 24 variations between the different stores in terms

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<p>1 of volume. Right?</p> <p>2 A. It does not.</p> <p>3 Q. It doesn't take into account or</p> <p>4 look at the prescribing physicians at the</p> <p>5 particular locations. Right?</p> <p>6 A. It does not.</p> <p>7 Q. It doesn't look and take into</p> <p>8 consideration whether a particular store is</p> <p>9 serving a large hospital, does it?</p> <p>10 A. It does not.</p> <p>11 Q. So a Rite Aid store in rural Ohio</p> <p>12 would have the same distribution center threshold</p> <p>13 as a Rite Aid store in downtown Cleveland.</p> <p>14 Right?</p> <p>15 MS. McENROE: Objection to form.</p> <p>16 THE WITNESS: The 5,000 would</p> <p>17 apply to both stores.</p> <p>18 BY MR. POWERS:</p> <p>19 Q. Does anyone else beside the</p> <p>20 distribution center employees have responsibility</p> <p>21 to contact the pharmacy when an order comes in</p> <p>22 over threshold?</p> <p>23 MS. McENROE: Objection to form.</p> <p>24 THE WITNESS: When an order comes</p>	<p>1 what the suggested order continuously for that</p> <p>2 store came in above the threshold, we would take</p> <p>3 that into account as well.</p> <p>4 - - -</p> <p>5 (Deposition Exhibit No. Rite</p> <p>6 Aid-Hart-4, Pharmacy Replenishment System</p> <p>7 Store Order History, Bates stamped</p> <p>8 Rite_Aid_OMDL_0015302 through</p> <p>9 Rite_Aid_OMDL_0015307, was marked for</p> <p>10 identification.)</p> <p>11 - - -</p> <p>12 BY MR. POWERS:</p> <p>13 Q. I'm going to hand you what's been</p> <p>14 marked as Hart Exhibit 4. It is a document that</p> <p>15 is Bates labeled Rite_Aid_OMDL_0015302 through</p> <p>16 15307. Take a look at that.</p> <p>17 A. Thank you.</p> <p>18 MS. McENROE: Just for the</p> <p>19 record, Will, so that I'm not confusing</p> <p>20 myself, I agree the Bates range goes that</p> <p>21 direction.</p> <p>22 Do you know how this was produced</p> <p>23 together with an email behind a document?</p> <p>24 MR. POWERS: I believe this Bates</p>
Page 139	Page 141
<p>1 in over threshold, that rests with the</p> <p>2 DC.</p> <p>3 BY MR. POWERS:</p> <p>4 Q. Did anyone ever call you in</p> <p>5 government affairs about orders coming in over</p> <p>6 threshold?</p> <p>7 A. Not that I recall, no.</p> <p>8 Q. Do you know if anyone in</p> <p>9 government affairs was ever contacted about</p> <p>10 stores consistently ordering above threshold?</p> <p>11 MS. McENROE: Objection to form.</p> <p>12 THE WITNESS: Not that I recall.</p> <p>13 BY MR. POWERS:</p> <p>14 Q. And we talked about stores that</p> <p>15 had exceptions to the 5,000 dosage unit</p> <p>16 threshold. Right?</p> <p>17 A. Correct.</p> <p>18 Q. How was it determined that a</p> <p>19 store would get an exception to the 5,000 dosage</p> <p>20 unit threshold?</p> <p>21 A. We would look at the dispensing</p> <p>22 history for that particular store, the order</p> <p>23 history for that particular store, and make a</p> <p>24 determination as far as if what the adjust --</p>	<p>1 range was identified by Rite Aid in its</p> <p>2 interrogatory responses in this</p> <p>3 particular order and range.</p> <p>4 MS. McENROE: Got it. Okay.</p> <p>5 THE WITNESS: (Reviewing</p> <p>6 document.)</p> <p>7 BY MR. POWERS:</p> <p>8 Q. Direct your attention to the</p> <p>9 third to last page in Exhibit 4, with the Bates</p> <p>10 number 15305. It looks like the beginning of an</p> <p>11 email chain.</p> <p>12 Do you see that?</p> <p>13 A. I do.</p> <p>14 Q. It looks like at the top here</p> <p>15 it's an email from Andrea Bucher to you, Janet</p> <p>16 Hart, on November 12, 2010. Right?</p> <p>17 A. The email is from me to Andrea.</p> <p>18 Q. Oh, I'm sorry. I have that</p> <p>19 backwards.</p> <p>20 It's an email from you to Andrea</p> <p>21 Bucher in 2010. Right?</p> <p>22 A. Correct.</p> <p>23 Q. And it looks like you are</p> <p>24 reviewing the order history of store 3151?</p>

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<p>1 A. That is correct.</p> <p>2 Q. And in particular, you're</p> <p>3 reviewing the hydrocodone threshold for store</p> <p>4 3151. Right?</p> <p>5 A. For the product 5/500. Correct.</p> <p>6 Q. And was it your office that would</p> <p>7 make the determination whether or not to give a</p> <p>8 threshold exception to a particular store?</p> <p>9 A. It would be.</p> <p>10 Q. And that's a threshold exception</p> <p>11 to the 5,000 dosage unit threshold. Right?</p> <p>12 A. That's correct.</p> <p>13 Q. And it looks like in the top</p> <p>14 email there, you're asking Andrea Bucher to "run</p> <p>15 reports" for Monday. Right?</p> <p>16 A. Correct.</p> <p>17 Q. What reports are you referring</p> <p>18 there?</p> <p>19 A. A DUR report, a screen print from</p> <p>20 the computer system, and reports like that.</p> <p>21 Q. Are those reports the pages</p> <p>22 reflected in the first three pages of Exhibit 4,</p> <p>23 15302 through 15304?</p> <p>24 A. They are.</p>	<p>1 would that be -- where would a record of that be</p> <p>2 reflected?</p> <p>3 A. It could be in the file. It</p> <p>4 could be just something that we did verbally. It</p> <p>5 doesn't have to be reflected anywhere.</p> <p>6 Q. Did you do -- strike that.</p> <p>7 Was there any written procedure</p> <p>8 about how you were to determine whether a</p> <p>9 threshold increase would be granted?</p> <p>10 A. No written procedure, no, that</p> <p>11 I'm aware of.</p> <p>12 Q. It was just something that you</p> <p>13 yourself determined. Right?</p> <p>14 A. True.</p> <p>15 I would like to make note on this</p> <p>16 one DUR report that you had produced here, it</p> <p>17 looks like if you look at Andrea's 45,000 divided</p> <p>18 by 12. When you look at the DUR report, it's</p> <p>19 only a four-month period of time. It's not a</p> <p>20 12-month period of time.</p> <p>21 Q. Were you supposed to look at a</p> <p>22 12-month period of time to determine whether a</p> <p>23 threshold exception was appropriate?</p> <p>24 A. It all depends.</p>
<p style="text-align: center;">Page 143</p> <p>1 Q. And it looks like the first page</p> <p>2 of Exhibit 4, 15302, is the store order history.</p> <p>3 Right?</p> <p>4 A. That is correct.</p> <p>5 Q. 15303 is the dispensing history.</p> <p>6 Right?</p> <p>7 A. That's correct.</p> <p>8 Q. And the 15304 is the DUR report.</p> <p>9 Right?</p> <p>10 A. That is correct.</p> <p>11 Q. And besides these three reports,</p> <p>12 did you use anything else to determine whether a</p> <p>13 store would receive a threshold exception?</p> <p>14 A. These were the primary reports</p> <p>15 that we used.</p> <p>16 Q. Was there anything else you used</p> <p>17 to determine whether a store would get a</p> <p>18 threshold exception?</p> <p>19 A. We may have looked at the store</p> <p>20 itself. We may have looked at where it was</p> <p>21 located. Those were things that we would review</p> <p>22 also for a threshold increase.</p> <p>23 Q. If you looked at anything besides</p> <p>24 these three reports here in Exhibit 4, where</p>	<p style="text-align: center;">Page 145</p> <p>1 Q. Why did you feel the need to</p> <p>2 point out that this was only a four-month period</p> <p>3 of time here?</p> <p>4 A. The four-month period of time</p> <p>5 increases the amount of dosage units that would</p> <p>6 have been dispensed in that -- for that period of</p> <p>7 time. So instead of taking the 45,000 and</p> <p>8 dividing it by 12 months, the usage for that</p> <p>9 store would have been the 45,000 divided by the</p> <p>10 four months.</p> <p>11 Q. So Andrea Bucher's handwritten</p> <p>12 note on page 15304 of Exhibit 4 is incorrect</p> <p>13 then?</p> <p>14 A. Yes.</p> <p>15 Q. Did you ever go and physically</p> <p>16 visit a store when you were determining whether</p> <p>17 or not that store should get a threshold</p> <p>18 increase?</p> <p>19 A. I have visited a store for a</p> <p>20 threshold increase.</p> <p>21 Q. When was that?</p> <p>22 A. Within the last three or four</p> <p>23 years. Obviously we stopped distributing in</p> <p>24 2014, so it was prior to that. I'm going to say</p>

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<p>1 probably two years prior to us stopping 2 distributing hydrocodone. 3 Q. Do you remember where that store 4 was? 5 A. Brodheadsville, Pennsylvania. 6 Q. Did you visit that store because 7 it was close to where you were residing at the 8 time? 9 MS. McENROE: Objection to form. 10 THE WITNESS: I did not.</p> <p>11 BY MR. POWERS:</p> <p>12 Q. Why did you feel the need to 13 visit that particular store in person? 14 A. There was a lot of hydrocodone 15 that was dispensed from that particular pharmacy. 16 And we were looking at it as far as the mix of 17 doctors and things along those lines. And so I 18 went out to visit the store. 19 Q. Besides that store in 20 Pennsylvania you just mentioned, did you ever go 21 to any other stores in person to determine 22 whether or not they should receive a threshold 23 increase? 24 A. No.</p>	<p>1 MS. McENROE: Objection to form. 2 THE WITNESS: It's not reflected 3 in this documentation. 4 BY MR. POWERS: 5 Q. Did you do that for every store 6 when determining whether the store should get a 7 threshold increase? 8 A. We did not. 9 Q. Why did you decide to do it for 10 particular stores and not other stores? 11 A. We did it based on the volume of 12 the store, the size of the increase that was -- 13 they were asking for. There were different 14 parameters. Each one of them is a little 15 individual situation. 16 Q. You said there are different 17 parameters you looked at. 18 What are the parameters you 19 looked at when determining whether a threshold 20 increase was warranted? 21 A. Primarily what's on this 22 document, but we also look at the store overall. 23 We would look at it to determine if it was up in 24 business overall.</p>
<p>1 Q. So it was just the one time? 2 A. Yes. 3 Q. Did you ever review the 4 percentage of controlled substances dispensed 5 versus the controlled -- percentage of 6 noncontrolled substances dispensed when 7 determining if a store should get a threshold 8 increase? 9 A. We do. We did. 10 Q. How is that reflected? 11 A. How is it reflected? 12 MS. McENROE: Objection to form.</p> <p>13 BY MR. POWERS:</p> <p>14 Q. In the documentation for a -- 15 A. Well, it's not in the -- 16 MS. McENROE: Let him finish his 17 question. 18 THE WITNESS: Oh, sorry, sorry.</p> <p>19 BY MR. POWERS:</p> <p>20 Q. How is the looking at the mix of 21 controlled substances to all dispensing reflected 22 in any written documentation you reviewed to 23 determine whether a store should get a threshold 24 increase?</p>	<p>147</p> <p>1 Q. When you say we looked at the 2 store overall, who is "we"?</p> <p>3 A. Either Andrea or myself, but 4 someone in government affairs.</p> <p>5 Q. Anyone else besides Andrea ever 6 look at the stores to determine whether they 7 warranted a threshold increase?</p> <p>8 MS. McENROE: Objection to form.</p> <p>9 THE WITNESS: I think at some 10 point once we brought Amy Knisely on, she 11 may have looked at threshold increases.</p> <p>12 BY MR. POWERS:</p> <p>13 Q. And these three reports here on 14 the first three pages of Exhibit 4, those only 15 reflect the amount of products ordered. Right?</p> <p>16 A. They do.</p> <p>17 Q. So they don't have any insight, 18 those three reports don't have any insight into 19 what doctors are prescribing. Right?</p> <p>20 MS. McENROE: Objection to form.</p> <p>21 THE WITNESS: They do not.</p> <p>22 BY MR. POWERS:</p> <p>23 Q. They don't have any insight into 24 whether the prescriptions are being dispensed in</p>

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<p>1 combination with other controlled substances.</p> <p>2 Right?</p> <p>3 A. They do not.</p> <p>4 Q. They don't reflect whether these</p> <p>5 particular prescriptions in dispensing are being</p> <p>6 done -- are being paid for in cash. Right?</p> <p>7 A. They do not.</p> <p>8 Q. And besides running these three</p> <p>9 reports to determine whether a store got a</p> <p>10 threshold increase, there was no other thing or</p> <p>11 things that you did every single time a store</p> <p>12 requested a threshold increase. Right?</p> <p>13 MS. McENROE: Objection to form.</p> <p>14 THE WITNESS: Could you repeat</p> <p>15 the question?</p> <p>16 BY MR. POWERS:</p> <p>17 Q. Sure. I'll break it down a</p> <p>18 little further.</p> <p>19 Did you run these three reports,</p> <p>20 the order history report, the dispensing history</p> <p>21 and the DUR report, every time a store requested</p> <p>22 a threshold increase?</p> <p>23 A. Yes.</p> <p>24 Q. Besides the three reports, did</p>	<p>1 the DUR.</p> <p>2 BY MR. POWERS:</p> <p>3 Q. You said included in the DUR.</p> <p>4 Would it be included in all three</p> <p>5 reports, including the dispensing history and the</p> <p>6 store order history in the same manner?</p> <p>7 A. Yes.</p> <p>8 Q. So if I'm looking at the second</p> <p>9 page of Exhibit 4 on page 15303, I'm looking</p> <p>10 there in the left-hand column under "Week</p> <p>11 Ending," "2010-11-27," and it says the quantity</p> <p>12 is 2,052.</p> <p>13 Do you see that?</p> <p>14 A. Yes.</p> <p>15 Q. So that 2,052 quantity would</p> <p>16 include the quantity distributed by Rite Aid, but</p> <p>17 also include the quantity distributed by McKesson</p> <p>18 as well?</p> <p>19 MS. McENROE: Objection to form.</p> <p>20 THE WITNESS: That is correct.</p> <p>21 BY MR. POWERS:</p> <p>22 Q. I should actually clarify that.</p> <p>23 The quantity of 2,052 would be</p> <p>24 the total amount dispensed by Rite Aid, supplied</p>
<p>1 you do anything else every single time that a</p> <p>2 threshold increase was requested?</p> <p>3 A. Not every single time.</p> <p>4 Q. Individual Rite Aid stores could</p> <p>5 also order controlled substances, including</p> <p>6 opioids, from McKesson. Right?</p> <p>7 A. That is correct.</p> <p>8 Q. Did you ever compare the McKesson</p> <p>9 ordering history for a particular store when you</p> <p>10 were determining whether a store could get a</p> <p>11 threshold increase?</p> <p>12 MR. POWERS: Objection to form.</p> <p>13 MR. KELLY: Objection.</p> <p>14 THE WITNESS: The information</p> <p>15 that's reflected on these reports, the</p> <p>16 DUR and the dispensing, would include the</p> <p>17 McKesson product that was dispensed.</p> <p>18 So this would be a total of both</p> <p>19 the distribution center and the McKesson</p> <p>20 product.</p> <p>21 So that -- so when you see those</p> <p>22 numbers there, McKesson was included,</p> <p>23 because if the McKesson was -- product</p> <p>24 was dispensed, it would be included in</p>	<p>1 by both Rite Aid and McKesson. Right?</p> <p>2 A. That is correct.</p> <p>3 MR. KELLY: Objection to form.</p> <p>4 BY MR. POWERS:</p> <p>5 Q. And if you made the decision to</p> <p>6 adjust a threshold at a particular store, how did</p> <p>7 you communicate that decision?</p> <p>8 A. We would communicate it to the</p> <p>9 distribution center and to the pharmacy district</p> <p>10 manager of that particular store, that there</p> <p>11 would be a threshold increase.</p> <p>12 Q. How did you communicate?</p> <p>13 A. Typically email. And then we</p> <p>14 would provide a copy of this documentation to the</p> <p>15 distribution center for their file as well.</p> <p>16 Q. And when you say this</p> <p>17 documentation, you're referring to the reports</p> <p>18 reflected in Exhibit 4?</p> <p>19 A. Yes.</p> <p>20 Q. Why did you provide the</p> <p>21 documentation to the distribution center?</p> <p>22 A. So that if they had a DEA audit,</p> <p>23 they would be able to provide the DEA the</p> <p>24 reasoning and the usage to document why it was</p>

<p style="text-align: right;">Page 154</p> <p>1 above the 5,000 dosage units.</p> <p>2 MS. McENROE: Will, before we 3 move on, if it's a good time for lunch at 4 some point soon, if you'll let us know.</p> <p>5 MR. POWERS: Yeah. Are you okay 6 to do one more document and then we can 7 break for lunch?</p> <p>8 THE WITNESS: Sure.</p> <p>9 MR. POWERS: Okay. Actually, you 10 know what, let's just take a break now 11 for lunch. That's fine.</p> <p>12 MS. McENROE: Great.</p> <p>13 THE VIDEOGRAPHER: Going off the 14 record at 12:38 p.m. 15 - - - 16 (A luncheon recess was taken from 17 12:38 p.m. to 1:30 p.m.) 18 - - - 19 THE VIDEOGRAPHER: Back on the 20 record at 1:30 p.m.</p> <p>21 BY MR. POWERS:</p> <p>22 Q. Welcome back, Ms. Hart.</p> <p>23 A. Thank you.</p> <p>24 Q. You understand that you're still</p>	<p style="text-align: right;">Page 156</p> <p>1 flux from day to day to day. And there could 2 be an order in process where you're not going to 3 get it in a timely manner.</p> <p>4 Q. What do you mean, an order in 5 process?</p> <p>6 A. If you're going to dispense in a 7 week 4,464, for example, the second number there, 8 you have to have more than 4,464 on your shelf. 9 You could get to that quantity and dispense it, 10 and there may be no additional product on your 11 shelf. You have to make room for an order that 12 was shipped -- remember an order was once a week. 13 You have to make room for an order that was 14 shipped, allow it to get to the particular 15 pharmacy. And while it's in transit, you would 16 need more product on your shelf.</p> <p>17 Q. So, for example, on the second 18 page of Exhibit 4 there, the middle column there, 19 it says, "Week Ending," and underneath it, it 20 says, "Week Ending," 2010-11-20." Right?</p> <p>21 A. Yes.</p> <p>22 Q. And that's 4,154 dosage units.</p> <p>23 Right?</p> <p>24 A. Which one are you at?</p>
<p style="text-align: right;">Page 155</p> <p>1 under oath. Right?</p> <p>2 A. I do.</p> <p>3 Q. Could you turn back to Exhibit 4 4 there for a second.</p> <p>5 Do you know whether store 3151 -- 6 let me back up.</p> <p>7 These reports are to determine 8 whether store 3151 gets a threshold increase. 9 Right?</p> <p>10 A. Correct.</p> <p>11 Q. Do you know if store 3151 did in 12 fact get a threshold increase?</p> <p>13 A. I know they did.</p> <p>14 Q. On the second page of Exhibit 4, 15 the dispensing history there, are those 16 quantities in dosage units?</p> <p>17 A. They are.</p> <p>18 Q. Why did store 3151 get a 19 threshold increase if all the quantities here are 20 under 5,000 dosage units?</p> <p>21 A. There could be a few reasons for 22 that, based on when the order is received. Just 23 because you have -- just because you dispensed 24 less than 5,000 doesn't mean that there's not a</p>	<p style="text-align: right;">Page 157</p> <p>1 Q. The week ending 11/20, I believe 2 the number is 4,154.</p> <p>3 A. Correct.</p> <p>4 Q. So in that instance, that would 5 be the total dispensing for that week in dosage 6 units. Right?</p> <p>7 A. Correct.</p> <p>8 Q. So I don't know if you can do the 9 math on the fly here, but it'd approximately be 10 about 846 dosage units left on the shelf after 11 that week. Right?</p> <p>12 A. That is correct. But it's a 13 moving total from order to order. So that is 14 what should be on the shelf. But there's also 15 the movement of it as far as when you get your 16 order, when the order is actually shipped type 17 thing.</p> <p>18 Q. So you don't actually have to be 19 ordering over -- or let me strike that.</p> <p>20 You don't have to be dispensing 21 over the thresholds in dosage units to get a 22 threshold increase; is that correct?</p> <p>23 MS. McENROE: Objection to form.</p> <p>24 THE WITNESS: Typically you would</p>

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<p>1 look at, from this one here, when the 2 order was received from the store, when 3 it was shipped from the distribution 4 center, and would determine if you needed 5 an increase or not.</p> <p>6 It's typical that they may not 7 reach that 5,000, but it's also, there 8 are circumstance where they would need 9 more than 5,000.</p> <p>10 BY MR. POWERS:</p> <p>11 Q. How did you make the 12 determination to increase the threshold of that 13 store 3151 based on this data here in Exhibit 4?</p> <p>14 A. Andrea Bucher made the decision.</p> <p>15 Q. Andrea Bucher made the decision 16 to increase the threshold?</p> <p>17 A. Yes, yes.</p> <p>18 Q. She said that you made the 19 decision.</p> <p>20 MS. McENROE: Objection to form.</p> <p>21 THE WITNESS: I'm sorry. She may 22 have talked to me about it, but this is 23 her calculation and her handwriting on 24 here.</p>	<p>1 MS. McENROE: Objection to form. 2 THE WITNESS: Andrea and I 3 discussed threshold increases back in the 4 time when we were distributing controlled 5 substances. Her office is directly next 6 door to mine. So it's not unusual for us 7 to discuss threshold increases.</p> <p>8 BY MR. POWERS:</p> <p>9 Q. Who had the ultimate say about 10 whether a store got a threshold increase?</p> <p>11 A. I had the ultimate say.</p> <p>12 Q. I'm going to hand you what's been 13 marked as Hart Exhibit 5.</p> <p>14 - - -</p> <p>15 (Deposition Exhibit No. Rite 16 Aid-Hart-5, Excel Spreadsheet Printout, 17 Bates stamped Rite_Aid_OMDL_0013151, was 18 marked for identification.)</p> <p>19 - - -</p> <p>20 THE WITNESS: Thank you.</p> <p>21 BY MR. POWERS:</p> <p>22 Q. It's, once again, a multiple-page 23 document. And it --</p> <p>24 MS. McENROE: Will, do you have</p>
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<p>1 BY MR. POWERS:</p> <p>2 Q. I'm not asking who calculated 3 these numbers or ran these numbers.</p> <p>4 I'm asking who made the final 5 decision whether or not store 3151 would get a 6 threshold increase.</p> <p>7 MS. McENROE: Objection to form.</p> <p>8 BY MR. POWERS:</p> <p>9 Q. Who did that?</p> <p>10 A. I don't remember.</p> <p>11 Q. Andrea Bucher's testimony was 12 that all she did was run the reports and then 13 handed it off to you and you made the decision.</p> <p>14 A. That's quite possible.</p> <p>15 MS. McENROE: Objection to form.</p> <p>16 BY MR. POWERS:</p> <p>17 Q. And you don't recall why in this 18 particular instance for store 3151 you gave them 19 a threshold increase?</p> <p>20 A. I do not.</p> <p>21 Q. Was there often confusion about 22 whether you or Andrea was going to make a 23 decision about whether to give a store a 24 threshold increase?</p>	<p>1 the Bates range for this? And can you 2 represent it's a complete document?</p> <p>3 MR. POWERS: That's a good 4 question.</p> <p>5 I can grab the Bates number 6 range.</p> <p>7 I believe it's a native Excel 8 sheet, so --</p> <p>9 MS. McENROE: And this is the 10 full printout of the full thing?</p> <p>11 MR. POWERS: Yes.</p> <p>12 The Bates number on the document 13 is Rite_Aid_OMDL_0013151.</p> <p>14 MS. McENROE: Thank you.</p> <p>15 And are these different workbooks 16 from the Excel spreadsheet? Because I'm 17 having a hard time. It kind of looked 18 like the columns are cut off.</p> <p>19 MR. POWERS: I believe there are 20 different tabs in the spreadsheet.</p> <p>21 MS. McENROE: Okay.</p> <p>22 MR. POWERS: And I'll say right 23 now, I'm not going to get too much into 24 the substance of it, so I don't think</p>

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<p>1 that will matter about the different 2 cutoffs and things.</p> <p>3 THE WITNESS: (Reviewing 4 document.)</p> <p>5 BY MR. POWERS:</p> <p>6 Q. I realize the formatting might be 7 a little bit off in Exhibit 5, but generally do 8 you recognize what is reflected in Exhibit 5?</p> <p>9 MS. McENROE: Objection to form.</p> <p>10 THE WITNESS: I do.</p> <p>11 BY MR. POWERS:</p> <p>12 Q. What is Exhibit 5?</p> <p>13 A. It appears to be an above average 14 report from the distribution center.</p> <p>15 Q. And that's the same above average 16 report we were talking about before in relation 17 to Exhibit 3. Right?</p> <p>18 MS. McENROE: Objection to form.</p> <p>19 THE WITNESS: That is true, 20 though the document is not marked that 21 it's from the Perryman Distribution 22 Center.</p> <p>23 BY MR. POWERS:</p> <p>24 Q. How do you know it's from the</p>	<p>1 A. Above Average report, tech log, 2 you know, depending on the person.</p> <p>3 Q. Do you know when the threshold 4 logs were first started to be recorded?</p> <p>5 MS. McENROE: Objection to form.</p> <p>6 THE WITNESS: I believe there 7 were always threshold logs at the 8 distribution centers.</p> <p>9 BY MR. POWERS:</p> <p>10 Q. When you say "always," do you 11 mean ever since your time at Rite Aid?</p> <p>12 A. Yes. Well, since the 13 distribution center opened and started servicing 14 the stores.</p> <p>15 Q. And are you referring to all 16 distribution centers?</p> <p>17 A. Yes.</p> <p>18 Q. So all distribution centers since 19 they opened kept threshold logs; is that right?</p> <p>20 A. To the best of my knowledge, that 21 is.</p> <p>22 Q. Were all of the distribution 23 centers using the same basic format to keep these 24 threshold logs?</p>
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<p>1 Perryman Distribution Center?</p> <p>2 A. I don't know that it's from the 3 Perryman Distribution Center.</p> <p>4 Q. Oh, I see what you're saying.</p> <p>5 You're saying Exhibit 3 was for 6 Perryman Distribution Center and you're not sure 7 if this threshold log is from Perryman 8 Distribution Center; is that right?</p> <p>9 A. Correct. Because I didn't see it 10 marked anywhere on the log.</p> <p>11 Q. Okay. These -- the document in 12 front of you marked as Exhibit 5, can we agree to 13 call that a threshold log?</p> <p>14 A. Yes.</p> <p>15 Q. Is that the term that was used in 16 the distribution centers to refer to a document 17 like this, Exhibit 5?</p> <p>18 MS. McENROE: Objection to form.</p> <p>19 THE WITNESS: I think there were 20 various terms for it, but all the general 21 term overall.</p> <p>22 BY MR. POWERS:</p> <p>23 Q. What were some of the various 24 terms it was referred to as?</p>	<p>1 A. I don't know that.</p> <p>2 Q. Did you ever review these 3 threshold logs in your position in government 4 affairs?</p> <p>5 A. I had reviewed some of these 6 logs, yes.</p> <p>7 Q. Did you review the threshold logs 8 periodically?</p> <p>9 A. Periodically, yes.</p> <p>10 Q. Was it on any set schedule?</p> <p>11 A. A few times a year, quarterly.</p> <p>12 Q. So every three months 13 approximately. Is that fair?</p> <p>14 A. Yes. Approximate, yes.</p> <p>15 Q. Did anyone else review these 16 threshold logs at the corporate office?</p> <p>17 MS. McENROE: Objection to form.</p> <p>18 THE WITNESS: I believe Chris 19 Belli and Kevin Mitchell received these 20 logs as well.</p> <p>21 BY MR. POWERS:</p> <p>22 Q. Do you know why Kevin Mitchell 23 and Chris Belli received the threshold logs?</p> <p>24 MS. McENROE: Objection to form.</p>

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<p>1 THE WITNESS: To review them and 2 make sure that their personnel and that 3 their associates were doing what they 4 were supposed to be doing.</p> <p>5 BY MR. POWERS:</p> <p>6 Q. How would the threshold logs 7 demonstrate that?</p> <p>8 A. Simply having the log, completing 9 the log, making sure that that log is part of the 10 standard operating procedures.</p> <p>11 Q. Do you know if they were viewed 12 for any other purpose besides that?</p> <p>13 MS. McENROE: Objection to form.</p> <p>14 THE WITNESS: I do not know.</p> <p>15 BY MR. POWERS:</p> <p>16 Q. You said you reviewed these logs 17 quarterly. Right? Approximately quarterly?</p> <p>18 A. Approximately quarterly, yes.</p> <p>19 Q. Why were you receiving these 20 logs -- or let me rephrase that.</p> <p>21 Why were you reviewing these logs 22 quarterly?</p> <p>23 A. To look at the quantities 24 ordered, to eyeball the report to see if there</p>	<p>1 you used any criteria to determine whether the 2 store was ordering abnormally.</p> <p>3 And you said no. Right?</p> <p>4 A. Nope.</p> <p>5 Q. So you're just using your own 6 feeling about whether a store is ordering 7 abnormally. Right?</p> <p>8 MS. McENROE: Objection to form.</p> <p>9 THE WITNESS: That is correct.</p> <p>10 BY MR. POWERS:</p> <p>11 Q. Was there anyone else who 12 reviewed these logs besides Chris Belli, Kevin 13 Mitchell and yourself?</p> <p>14 MS. McENROE: Objection to form.</p> <p>15 THE WITNESS: Not that I know of.</p> <p>16 BY MR. POWERS:</p> <p>17 Q. Besides reviewing the logs for 18 abnormalities quarterly, did you use the logs in 19 any other way?</p> <p>20 A. Not that I remember.</p> <p>21 Q. What would you do if you 22 discovered an abnormality in one of these logs?</p> <p>23 A. If I discovered an abnormality in 24 one of the logs, I would reach out to the</p>
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<p>1 was any store that stuck out as, you know, 2 continuously appearing on the logs. Just to look 3 for any abnormalities.</p> <p>4 Q. Did you use any set criteria to 5 determine whether a store was ordering out of 6 pattern or was appearing as an abnormality?</p> <p>7 A. I did not.</p> <p>8 Q. It just was your own feeling 9 about it?</p> <p>10 A. And it should also --</p> <p>11 MS. McENROE: Objection to form.</p> <p>12 THE WITNESS: It should also be 13 noted that not all the drugs on this list 14 are controlled substances.</p> <p>15 BY MR. POWERS:</p> <p>16 Q. Why does that matter?</p> <p>17 A. It's -- those -- if they're not a 18 controlled substance, there's no -- they're not 19 subject to quantities or things like that.</p> <p>20 We have individual standards 21 established for some of the products, but they're 22 not involved in the -- in the distribution of 23 controlled substances.</p> <p>24 Q. I was asking before about whether</p>	<p>1 pharmacy district manager and tell them of the 2 order and have them investigate the order and why 3 it was placed.</p> <p>4 Q. Did you ever do that?</p> <p>5 A. I'm sure I did.</p> <p>6 Q. Where would the record of those 7 communications be?</p> <p>8 MS. McENROE: Objection to form.</p> <p>9 THE WITNESS: Some may be in 10 email. Some may be verbal.</p> <p>11 BY MR. POWERS:</p> <p>12 Q. When you say verbal, do you mean 13 a phone call?</p> <p>14 A. Yes.</p> <p>15 Q. When you communicated with the 16 pharmacy district manager about one of these 17 abnormalities that you identified, what would you 18 discuss?</p> <p>19 MS. McENROE: Objection to form.</p> <p>20 THE WITNESS: I would discuss how 21 the order is placed, what quantity was 22 ordered and was there a need for the 23 increase at the store from the 24 distribution center. And also was the</p>

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<p>1 order placed in error, was the order -- 2 did there need to be an asset protection 3 investigation, things along those lines. 4 BY MR. POWERS: 5 Q. Did you make a record of those 6 communications at all? 7 A. If I did, it would be in email. 8 Typically it may be a phone call. 9 Q. So besides an email, there was 10 no -- there was no log of these communications 11 that you would have had with the distribution -- 12 or, excuse me -- with the individual pharmacy 13 managers about particular stores that you had 14 questions about from the threshold log; is that 15 right? 16 A. Pharmacy district managers. And 17 that is right. 18 Q. Do you ever recall noticing 19 abnormalities of stores consistently ordering 20 hydrocodone products? 21 A. There could be stores that 22 consistently ordered hydrocodone, of course. 23 Q. But I'm saying in this process 24 we've just talked about, where you contact the</p>	<p>1 threshold logs had already been shipped. 2 Correct? 3 A. Yes. 4 Q. I'm going to hand you what's been 5 marked as Rite Aid Exhibit Number -- or Rite 6 Aid_Hart Exhibit Number 6. It's a multi-page 7 document with the Bates number 8 Rite_Aid_OMDL_46227 through 46319. It's a pretty 9 long document. I'm just going to ask you 10 questions about the first page. 11 MS. McENROE: And, Will, do 12 you -- can you reference this is a 13 complete document? 14 MR. POWERS: I believe, once 15 again, it's the range that was identified 16 in the interrogatory responses. 17 - - - 18 (Deposition Exhibit No. Rite 19 Aid-Hart-6, Rite Aid Controlled Drug 20 Reporting Above Average Controlled Drug 21 Purchases Report, Bates stamped 22 Rite_Aid_OMDL_0046227 through 23 Rite_Aid_OMDL_0046319, was marked for 24 identification.)</p>
<p style="text-align: center;">Page 171</p> <p>1 pharmacy district manager as a result of the 2 threshold log, do you specifically recall any 3 instances where you contacted the pharmacy 4 district manager as a result of hydrocodone 5 orders? 6 A. I don't remember specific to 7 hydrocodone. 8 Q. How about specific to any opioid 9 product that Rite Aid distributed? 10 MS. McENROE: Objection to form. 11 THE WITNESS: I do not. 12 BY MR. POWERS: 13 Q. Did you use these threshold logs 14 that you were reviewing quarterly to determine 15 whether particular orders were suspicious orders? 16 A. I did not. 17 Q. Do you know if Chris Belli and 18 Kevin Mitchell used these logs to determine if 19 orders were suspicious orders? 20 MS. McENROE: Objection to form. 21 THE WITNESS: I do not. 22 BY MR. POWERS: 23 Q. To be clear, when you got these 24 threshold logs, these orders reflected in the</p>	<p style="text-align: center;">Page 173</p> <p>1 - - - 2 THE WITNESS: (Reviewing 3 document.) 4 BY MR. POWERS: 5 Q. Do you recognize the exhibit 6 reflected -- do you recognize the document 7 reflected in Exhibit 6? 8 A. I do. 9 Q. What is this? 10 A. "Above Average Controlled Drug 11 Purchases Report." 12 Q. And can you explain what this 13 document -- or how this document was used? 14 MS. McENROE: Objection to form. 15 THE WITNESS: I believe asset 16 protection would run this report on a 17 monthly basis to identify where there was 18 the potential for the above average 19 purchase of controlled substances for a 20 particular drug. 21 BY MR. POWERS: 22 Q. Did you ever review a report like 23 this in Exhibit 6 personally? 24 A. I don't ever remember reviewing</p>

<p style="text-align: right;">Page 174</p> <p>1 this report. I believe it was more asset 2 protection.</p> <p>3 Q. Do you know if this report was 4 used to determine whether orders were suspicious 5 orders or not?</p> <p>6 MS. McENROE: Objection to form.</p> <p>7 THE WITNESS: I do not know that.</p> <p>8 BY MR. POWERS:</p> <p>9 Q. Does anyone in government affairs 10 besides yourself regularly review the report as 11 reflected in Exhibit 6?</p> <p>12 MS. McENROE: Objection to form.</p> <p>13 THE WITNESS: I do not know if 14 Mr. Krahulec had gotten the report prior 15 to me coming on. And I'm not sure of 16 that.</p> <p>17 BY MR. POWERS:</p> <p>18 Q. But to the best of your personal 19 knowledge, in the time that you were in 20 government affairs, no one else in government 21 affairs reviewed reports like the one represented 22 in Exhibit 6?</p> <p>23 MS. McENROE: Objection to form.</p> <p>24 THE WITNESS: That is correct.</p>	<p style="text-align: right;">Page 176</p> <p>1 about NaviScript and NaviCase, but that would be 2 the asset protection team at the corporate office 3 that would be involved in that as well.</p> <p>4 Q. So we've discussed all the facets 5 of the Rite Aid suspicious order monitoring 6 program so far; is that correct?</p> <p>7 MS. McENROE: Objection to form.</p> <p>8 THE WITNESS: That I can recall, 9 yes.</p> <p>10 BY MR. POWERS:</p> <p>11 Q. And to be clear, we've talked 12 about the -- the operating procedure in -- which 13 was entitled either Excessive Order Monitoring or 14 Suspicious Order Monitoring, and that was 15 represented in Exhibits 1 and 2. Right?</p> <p>16 A. Correct.</p> <p>17 Q. We talked about the controlled 18 drug above average order monitoring program 19 policy and procedure reflected in Exhibit 3. 20 Right? That's the one used at the Perryman 21 Distribution Center?</p> <p>22 MS. McENROE: Objection to form.</p> <p>23 THE WITNESS: Yes, that is 24 correct.</p>
<p style="text-align: right;">Page 175</p> <p>1 BY MR. POWERS:</p> <p>2 Q. So I asked you a little while ago 3 whether or not Rite Aid had a suspicious order 4 monitoring program. Right?</p> <p>5 A. Yes.</p> <p>6 Q. And we've talked about a couple 7 different documents so far.</p> <p>8 And in addition to the documents 9 I've shown you, we've talked about the NaviScript 10 system and the order replenishment system. 11 Right?</p> <p>12 A. Yes.</p> <p>13 Q. Is there anything else that we 14 have not talked about that you would consider 15 part of Rite Aid's suspicious order monitoring 16 system?</p> <p>17 MS. McENROE: Objection to form.</p> <p>18 THE WITNESS: Did you mention the 19 threshold at the distribution center?</p> <p>20 BY MR. POWERS:</p> <p>21 Q. I meant to include that in the 22 documents that we were talking about.</p> <p>23 A. Okay.</p> <p>24 And I would include, we talk</p>	<p style="text-align: right;">Page 177</p> <p>1 BY MR. POWERS:</p> <p>2 Q. We've talked about the reports 3 run to increase the threshold amount and the 4 process to increase the threshold amount for 5 particular stores. Right?</p> <p>6 A. Yes, we have.</p> <p>7 Q. And we've talked about the 5,000 8 dosage unit threshold. Right?</p> <p>9 A. Yes, we have.</p> <p>10 Q. And we've talked about the auto 11 replenishment system and the NaviScript/Navi -- 12 the Navi systems. Right?</p> <p>13 MS. McENROE: Objection to form.</p> <p>14 THE WITNESS: Yes, we have.</p> <p>15 BY MR. POWERS:</p> <p>16 Q. And that -- those things I just 17 mentioned, those are all the elements to the Rite 18 Aid suspicious order monitoring program. 19 Correct?</p> <p>20 MS. McENROE: Objection to form.</p> <p>21 BY MR. POWERS:</p> <p>22 Q. And actually, let me back up. 23 We also talked about the 24 threshold logs, too. Right?</p>

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<p>1 A. That is correct.</p> <p>2 Q. So all those things I just</p> <p>3 mentioned, as reflected in Exhibits 1 through 5</p> <p>4 and as well as the NaviScript system, the auto</p> <p>5 replenishment system and the threshold of 5,000</p> <p>6 dosage units, those elements fully represent the</p> <p>7 Rite Aid suspicious order monitoring system.</p> <p>8 Right?</p> <p>9 MS. McENROE: Objection to form.</p> <p>10 THE WITNESS: That I can recall</p> <p>11 at this time.</p> <p>12 BY MR. POWERS:</p> <p>13 Q. Are you familiar with the Buzzeo</p> <p>14 company?</p> <p>15 A. I am.</p> <p>16 Q. Is it also called -- I don't know</p> <p>17 how to pronounce this exactly, but Cegedim?</p> <p>18 A. I am.</p> <p>19 Q. It's the same company?</p> <p>20 A. (Witness nods head.)</p> <p>21 Q. You have to answer --</p> <p>22 A. Yes. I'm sorry, yes.</p> <p>23 Q. So if we just refer to it --</p> <p>24 throughout our discussion, I can just refer to it</p>	<p>1 Q. What was the extent of Rite Aid's</p> <p>2 use of Buzzeo services?</p> <p>3 A. Our logistics teams utilized</p> <p>4 Buzzeo services to review and inspect the</p> <p>5 distribution centers for compliance.</p> <p>6 Q. Are you referring to audits when</p> <p>7 you say review and inspect?</p> <p>8 MS. McENROE: Objection to form.</p> <p>9 THE WITNESS: Define what you</p> <p>10 mean by "audit."</p> <p>11 BY MR. POWERS:</p> <p>12 Q. There's been testimony that</p> <p>13 Buzzeo company came in and audited the Perryman</p> <p>14 Distribution Center at some point in time.</p> <p>15 Is that the same thing you're</p> <p>16 referring to when you say reviewed and inspected?</p> <p>17 MS. McENROE: Objection to form.</p> <p>18 THE WITNESS: I guess there's two</p> <p>19 terms for the definition "audit."</p> <p>20 There's an audit of everything in</p> <p>21 the entire distribution center, from</p> <p>22 paperwork to security to everything along</p> <p>23 those lines. And then there's an</p> <p>24 individual audit for like specific</p>
<p>1 Page 179</p> <p>1 as the Buzzeo company, we'll know what we're</p> <p>2 talking about?</p> <p>3 A. That's fine, yes.</p> <p>4 Q. What kind of services did Buzzeo</p> <p>5 offer?</p> <p>6 MS. McENROE: Objection to form.</p> <p>7 THE WITNESS: Ron Buzzeo offered</p> <p>8 services related to regulatory compliance</p> <p>9 with DEA rules and regulations. There</p> <p>10 was a wealth of services that Ron and his</p> <p>11 company offered.</p> <p>12 They offered a program to go into</p> <p>13 pharmacies and review the pharmacies as</p> <p>14 far as compliance with DEA rules and</p> <p>15 regulations. They offered programs on</p> <p>16 suspicious order monitoring. They</p> <p>17 ordered up programs on how to detect</p> <p>18 theft and diversion. There was a wide</p> <p>19 gamut of programs that they had offered</p> <p>20 related to controlled substances.</p> <p>21 BY MR. POWERS:</p> <p>22 Q. Did Rite Aid ever use any of</p> <p>23 those Buzzeo services?</p> <p>24 A. I believe we did, yes.</p>	<p>1 Page 181</p> <p>1 controlled substances, so that you would</p> <p>2 balance when a controlled substance came</p> <p>3 in and when it came out to make sure that</p> <p>4 all the drugs in the distribution center</p> <p>5 were accounted for. So, yes, I would say</p> <p>6 that would be an audit.</p> <p>7 BY MR. POWERS:</p> <p>8 Q. Did Buzzeo ever perform audits on</p> <p>9 Rite Aid facilities, as you just described an</p> <p>10 audit?</p> <p>11 A. I believe he did at the Perryman</p> <p>12 Distribution Center.</p> <p>13 Q. Do you know when that was?</p> <p>14 A. I don't remember.</p> <p>15 Q. Were you involved in that process</p> <p>16 of Buzzeo auditing the Perryman Distribution</p> <p>17 Center?</p> <p>18 A. I was not.</p> <p>19 Q. You also mentioned that Buzzeo</p> <p>20 had conferences. Right?</p> <p>21 A. I don't think I mentioned</p> <p>22 conferences.</p> <p>23 Q. Did Buzzeo have conferences?</p> <p>24 A. Buzzeo had conferences.</p>

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<p>1 Q. Did you ever attend any of the 2 Buzzeo conferences personally? 3 A. I may have attended one 4 conference when I first came into government 5 affairs, but that was pretty much the extent of 6 my attending Buzzeo conferences. 7 Q. Do you know if anyone else from 8 Rite Aid attended Buzzeo conferences? 9 A. Yes. Members of the logistics 10 team would attend the conferences. 11 Q. Who from the logistics team would 12 attend the Buzzeo conferences? 13 A. It varied from year to year, but 14 typically either the person that was in the 15 position of Kevin Mitchell or Chris Belli. I 16 know that occasionally the DEA coordinators would 17 attend the Buzzeo conference. 18 Q. When you say "DEA coordinators," 19 you're talking about distribution center 20 employees? 21 A. Yes. 22 Q. I am going to hand you what's 23 been marked as Exhibit 7. It's a one-page email 24 Bates stamped Rite_Aid_OMDL_0050632.</p>	<p>1 that Kevin Mitchell went to a Buzzeo conference. 2 Correct? 3 A. It appears so. 4 Q. Do you know who decided who was 5 able to go to the Buzzeo conferences? 6 A. I don't know. I was a different 7 department from logistics, and since logistics 8 had jurisdiction over the cage, they would 9 decide. If I chose to go, I would ask my boss 10 and say, can I go to the Buzzeo concert -- 11 conference. 12 Q. And it looks like Kevin Mitchell 13 is -- wants to talk to you about suspicious order 14 monitoring, because he thinks that what Rite Aid 15 has in place isn't sufficient anymore. Right? 16 MS. McENROE: Objection to form. 17 THE WITNESS: That's what's on 18 the communication. 19 BY MR. POWERS: 20 Q. And then you respond to him at 21 the top there, "Sounds good." Right? 22 A. Correct. 23 Q. And the date on that email in 24 Exhibit 7 is November 2010. Right?</p>
<p>1 - - - 2 (Deposition Exhibit No. Rite 3 Aid-Hart-7, Email chain, top one dated 4 2010-11-16, Bates stamped 5 Rite_Aid_OMDL_0050632, was marked for 6 identification.) 7 - - - 8 BY MR. POWERS: 9 Q. In Exhibit 7 there, it looks like 10 an email chain between you and Kevin Mitchell in 11 2010; is that right? 12 A. That is correct. 13 Q. And in the second to last email 14 on -- towards the top of the page on Exhibit 7, 15 Kevin Mitchell writes to you, Janet Hart, and 16 says, "When I get back to the office next week, 17 we need to talk about Suspicious order 18 monitoring... at Buzzeo's conference last week 19 and what we have in place probably isn't 20 sufficient anymore. I'll give you a shout so 21 that we can 'brain-storm.'" 22 Do you see that? 23 A. I do. 24 Q. So from this email, I take it</p>	<p>1 A. Yes. 2 - - - 3 (Deposition Exhibit No. Rite 4 Aid-Hart-8, Email chain, top one dated 5 2010-11-17, Bates stamped 6 Rite_Aid_OMDL_0050633, was marked for 7 identification.) 8 - - - 9 BY MR. POWERS: 10 Q. I'm going to hand you what's been 11 marked as Exhibit 8. It is another email, one 12 page, with Bates number Rite_Aid_OMDL_0050633. 13 Exhibit 8, the bottom email there 14 is from you, Janet Hart, to Maggie Perritt, Kevin 15 Mitchell, Andrew Palmer. And it looks like you 16 copied yourself as well. Right? 17 A. Yes. 18 Q. And the subject line of that 19 email is "Suspicious Monitoring." Right? 20 A. Yes. 21 Q. And you're asking that group of 22 people you sent the email to, "Can we" have a 23 "meeting at 10:30? I have a meeting at the 24 capitol at 9."</p>

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1 Do you see that? 2 A. Yes. 3 Q. Do you know if this meeting 4 you're referring to in Exhibit 8 is a follow-up 5 to Kevin Mitchell's email on Exhibit 7 about 6 wanting to talk about Rite Aid's suspicious 7 monitoring? 8 A. I believe so. 9 Q. And why did you send this to 10 Maggie Perritt? 11 Am I pronouncing her name 12 correctly? 13 A. Yeah, you're pronouncing it 14 correctly. 15 Q. Why did you send this email about 16 suspicious order monitoring to Maggie Perritt? 17 A. Maggie Perritt was in pharmacy 18 operations and was knowledgeable of the 19 suspicious order monitoring algorithm and how the 20 system worked. 21 Q. When you say "suspicious order 22 monitoring algorithm," what are you referring to? 23 A. The algorithm for placing the [REDACTED]	1 Mitchell. 2 Who was Andrew Palmer? 3 A. Andrew Palmer was a director in 4 asset protection at the time, I believe. 5 Q. Why did you invite him to this 6 meeting about suspicious order monitoring? 7 A. Because he was also key as part 8 of it as well. Him and his team were involved 9 with the analytics related to asset protection 10 and the analytics related to the key performance 11 indicators that were looked at from the asset 12 protection side. 13 Q. How did you use the -- let me 14 back up. 15 Did you use the asset protection 16 analytics to determine whether orders were 17 suspicious or not? 18 MS. McENROE: Objection to form. 19 THE WITNESS: We used the asset 20 protection analytics to review orders and 21 look for abnormalities. We did not use 22 the analytics from asset protection prior 23 to an order being shipped.
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1 [REDACTED] 2 to place the order. 3 Q. Is that also the auto 4 replenishment system that we talked about before? 5 A. Yes. 6 Q. Why are you referring to it as a 7 suspicious order monitoring system? 8 MS. McENROE: Objection, form. 9 THE WITNESS: In this one, since 10 it's under suspicious monitoring, that's 11 why I was referring to that, is that -- 12 because that was the title of this 13 particular meeting and she was bringing 14 that aspect of it into it. 15 BY MR. POWERS: 16 Q. So Maggie Perritt was the expert 17 on the auto replenishment system that was invited 18 to the suspicious order monitoring meeting; is 19 that right? 20 MS. McENROE: Objection to form. 21 THE WITNESS: From the pharmacy 22 operations side, yes. 23 BY MR. POWERS: 24 Q. And then we talked about Kevin	1 Q. So you only used the asset 2 protection analytics after the order was shipped; 3 is that right? 4 A. To the best of my knowledge, yes. 5 Q. And at this meeting referred to 6 in Exhibit 8, do you know what was discussed 7 about why Kevin Mitchell thought that the Rite 8 Aid suspicious order monitoring wasn't sufficient 9 anymore? 10 MS. McENROE: Objection to form. 11 THE WITNESS: Can you ask that 12 question again? 13 BY MR. POWERS: 14 Q. Sure. 15 We saw in Exhibit 7 Kevin 16 Mitchell saying that Rite Aid's suspicious order 17 monitoring system probably isn't sufficient 18 anymore. 19 Do you recall that? 20 A. I do. 21 Q. Okay. And then you eventually 22 had a meeting to discuss the suspicious order 23 monitoring program at Rite Aid. Right? 24 A. It appears so, yes.

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<p>1 Q. And Kevin Mitchell was at that 2 meeting. Right? 3 A. Yes. 4 Q. What did Kevin Mitchell -- why 5 did Kevin Mitchell think that the Rite Aid 6 suspicious order monitoring program wasn't 7 sufficient anymore?</p> <p>8 MS. McENROE: Objection to form.</p> <p>9 THE WITNESS: I think Kevin's 10 thought process on the meeting and what 11 he wanted to discuss was that the 5,000 12 tablet dosage limit was not sufficient to 13 be a suspicious order monitoring program. 14 At the meeting, what was discussed and 15 why I invited Andy Palmer and Maggie 16 Perritt is everybody had a piece of the 17 puzzle, but everybody was not on the same 18 page. So we had to put everybody on the 19 same page as far as the program, to 20 understand the program in its entirety.</p> <p>21 BY MR. POWERS:</p> <p>22 Q. Who was in charge of the program 23 in its entirety?</p> <p>24 MS. McENROE: Objection to form.</p>	<p>1 monitoring program? 2 MS. McENROE: Objection to form, 3 asked and answered.</p> <p>4 BY MR. POWERS:</p> <p>5 Q. Let me back up and let me break 6 that question down.</p> <p>7 What role did Andy Palmer play in 8 the suspicious order monitoring program?</p> <p>9 A. Andy Palmer brought the asset 10 protection portion of the program.</p> <p>11 Q. And when you say asset 12 protection, that refers to theft or loss of 13 physical product; is that correct?</p> <p>14 MS. McENROE: Objection to form.</p> <p>15 THE WITNESS: Asset protection 16 was not just simply theft or loss of 17 product. Asset protection had many KPIs 18 at their fingertips in order to look at 19 ordering parameters from a store, in 20 order to look at, from a store 21 perspective, cycle counts down. In a 22 store, there were various things that they 23 looked at and developed in response to 24 ordering and cycle counts.</p>
<p>1 THE WITNESS: Kevin Mitchell.</p> <p>2 BY MR. POWERS:</p> <p>3 Q. So the person who was in charge 4 of the program in its entirety didn't understand 5 it; is that right?</p> <p>6 MS. McENROE: Objection to form.</p> <p>7 THE WITNESS: I didn't say he 8 didn't understand it. I said he -- or I 9 meant he didn't understand all of the 10 components.</p> <p>11 BY MR. POWERS:</p> <p>12 Q. So the person in charge of the 13 program did not understand all of the components 14 of the program; right?</p> <p>15 MS. McENROE: Objection to form.</p> <p>16 THE WITNESS: I believe that to 17 be true.</p> <p>18 BY MR. POWERS:</p> <p>19 Q. Did you make any changes as a 20 result of this meeting in 2011 to the suspicious 21 order monitoring program at Rite Aid?</p> <p>22 A. I do not believe so.</p> <p>23 Q. What roles did Andy Palmer and 24 Maggie Perritt play in the suspicious order</p>	<p>1 BY MR. POWERS: 2 Q. But those -- I think you said 3 those asset protection analytics were not used to 4 identify suspicious orders, were they? 5 MS. McENROE: Objection to form.</p> <p>6 THE WITNESS: They were used to 7 look at ordering of the stores and 8 identify abnormalities after the fact.</p> <p>9 BY MR. POWERS:</p> <p>10 Q. So is the answer no, they were 11 not -- the analytics were not used to identify 12 suspicious orders. Right?</p> <p>13 MS. McENROE: Objection to form.</p> <p>14 THE WITNESS: They were not 15 utilized to identify suspicious orders.</p> <p>16 BY MR. POWERS:</p> <p>17 Q. And Maggie Perritt's role at that 18 meeting reflected in Exhibit 8 was to be the 19 expert on auto replenishment system. Right? 20 A. That is correct.</p> <p>21 Q. I'm going to hand you what's been 22 marked as Hart Exhibit 9.</p> <p>23 - - -</p> <p>24 (Deposition Exhibit No. Rite</p>

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<p>1 Aid-Hart-9, Email chain top one dated 2 Email dated 2010-04-11, Bates stamped 3 Rite_Aid_OMDL_0050628 through 4 Rite_Aid_OMDL_0050630, was marked for 5 identification.) 6 - - - 7 BY MR. POWERS: 8 Q. This is Rite_Aid_OMDL_0050628 9 through 0050630. Take a look at that. 10 A. (Reviewing document.) 11 Q. So Exhibit 9 looks like an email 12 exchange. 13 And it's an email at the top 14 there of Exhibit -- the first page of Exhibit 9 15 that is forwarded from Kevin Mitchell to you, 16 Janet Hart, in 2011. Correct? 17 A. Yes. 18 Q. And the title of the email is 19 "Suspicious Order Monitoring." Right? 20 A. Yes. 21 Q. And it looks like Kevin Mitchell 22 is forwarding you an email from Kimberly Birklin. 23 Correct? There at the second email on the first 24 page?</p>	<p>1 doesn't it? 2 A. Yes. 3 Q. And this Cegedim page, this is 4 also the same thing as the Buzzeo company we've 5 been discussing. Correct? 6 A. Yes. 7 Q. And Kevin Mitchell forwards this 8 email from Kimberly Birklin to you, Janet Hart, 9 asking, "We never put anything in writing for 10 this... can we?" 11 Do you see that? 12 A. I do. 13 Q. Do you know what Kevin Mitchell 14 was referring to there about putting something in 15 writing? 16 A. I believe after Andy, Maggie, 17 Andy and myself and Kevin got together and 18 determined that our suspicious order monitoring 19 program was in fact compliant, Kevin wanted a 20 document to provide to the distribution centers 21 of the program, so that if they were -- had a DEA 22 inspection, they would be able to provide an 23 outline. 24 Q. You said that you determined that</p>
<p>1 A. Yes. 2 Q. Who is Kimberly Birklin? 3 A. Kimberly Birklin was the DEA 4 coordinator for the Liverpool Distribution 5 Center. 6 Q. And also in that email from 7 Kimberly Birklin, she copies Beth Mawhinney. 8 Do you know who that is? 9 A. Yes. I believe it's another 10 individual at the Liverpool Distribution Center. 11 Q. And Kimberly appears to be asking 12 about "SOM procedures for our building." And she 13 says, "Do you know if we are moving in this 14 direction for our order management system?" 15 Do you see that? 16 A. I do. 17 Q. And she puts a link there, and it 18 looks like it's a link to Cegedim.com. Right? 19 A. Yes. 20 Q. And then on the next page of 21 Exhibit 9, it looks like there's a screenshot she 22 included in her email. And it looks like it's a 23 screenshot of a -- it looks like it's a 24 suspicious order monitoring program there,</p>	<p>1 the Rite Aid system was compliant. 2 How did you make that 3 determination? 4 A. We looked at the different 5 components of it and determined that, because of 6 the Code of Federal Regulations, the DEA not 7 providing true guidance on a suspicious order 8 monitoring program, we met the -- we met the 9 requirements of that. 10 Q. What do you mean by the DEA -- 11 when you said the DEA did not provide true 12 guidance? 13 A. The DEA did not put out what an 14 order -- a suspicious order monitoring program 15 should look at exactly. They would say that it 16 should meet your book of business, but they never 17 put out a list of -- suspicious order monitoring 18 must be numbers 1 through 8 that you must have in 19 your program. 20 Q. Did you look at anything else 21 besides the Code of Federal Regulations itself to 22 determine that your suspicious order monitoring 23 system was compliant? 24 A. I don't remember if we did or</p>

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<p>1 not.</p> <p>2 Q. Did you look at any Buzzeo</p> <p>3 materials to determine whether it was compliant</p> <p>4 or not?</p> <p>5 A. We did not.</p> <p>6 Q. Did you look at other</p> <p>7 distributors' suspicious order monitoring</p> <p>8 programs to determine whether your Rite Aid</p> <p>9 system was compliant?</p> <p>10 MS. McENROE: Objection to form.</p> <p>11 THE WITNESS: We did not, from</p> <p>12 the perspective of our system was</p> <p>13 different than other distributors and our</p> <p>14 system was different from the Buzzeo</p> <p>15 programs that were offered in the fact</p> <p>16 that we were a closed system. Part of</p> <p>17 other distributors that are out there,</p> <p>18 their system was know -- part of it is</p> <p>19 know your customer, where obviously we</p> <p>20 know our customer. And so we looked at</p> <p>21 it from that approach.</p> <p>22 BY MR. POWERS:</p> <p>23 Q. When you say you know your</p> <p>24 customer, are you referring to the customers as</p>	<p>1 Right?</p> <p>2 A. Yes.</p> <p>3 Q. Kevin Mitchell writes to you, "We</p> <p>4 need to get the explanation on suspicious order</p> <p>5 monitoring in writing. I Thought Maggie was</p> <p>6 going to put something in writing. Did you ever</p> <p>7 get anything?"</p> <p>8 Do you see that?</p> <p>9 A. I do.</p> <p>10 Q. What is this email referencing?</p> <p>11 A. I believe it's referencing the</p> <p>12 previous -- one of the previous emails that we</p> <p>13 went over, as far as getting together a one-page</p> <p>14 document to provide to the distribution centers</p> <p>15 for their DEA inspections.</p> <p>16 Q. Do you know if that document was</p> <p>17 ever put together?</p> <p>18 A. To the best of my knowledge, it</p> <p>19 was not.</p> <p>20 Q. Do you know what would have been</p> <p>21 included in such a document?</p> <p>22 MS. McENROE: Objection to form.</p> <p>23 THE WITNESS: All of the</p> <p>24 components of what we've been discussing,</p>
<p>1 the individual Rite Aid stores?</p> <p>2 A. I am.</p> <p>3 Q. So in your view, you never got</p> <p>4 DEA guidance on the sufficiency of Rite Aid's</p> <p>5 suspicious order monitoring program; is that</p> <p>6 right?</p> <p>7 MS. McENROE: Objection to form.</p> <p>8 THE WITNESS: We never got DEA</p> <p>9 guidance.</p> <p>10 - - -</p> <p>11 (Deposition Exhibit No. Rite</p> <p>12 Aid-Hart-10, Email dated 2011-06-03,</p> <p>13 Bates stamped Rite_Aid_OMDL_0050634, was</p> <p>14 marked for identification.)</p> <p>15 - - -</p> <p>16 BY MR. POWERS:</p> <p>17 Q. I'm going to hand you what's been</p> <p>18 marked as Exhibit 10. The Bates number on this</p> <p>19 document is Rite_Aid_OMDL_0050634.</p> <p>20 A. (Reviewing document.)</p> <p>21 Q. So the exhibit marked as</p> <p>22 Exhibit 10 looks like an email from Kevin</p> <p>23 Mitchell to you, Janet Hart.</p> <p>24 And it's dated 2011, June 3rd.</p>	<p>1 the thresholds, automatic -- auto</p> <p>2 replenishment, the asset protection piece</p> <p>3 of the program.</p> <p>4 BY MR. POWERS:</p> <p>5 Q. Do you know why Maggie Perritt</p> <p>6 never put that document together?</p> <p>7 A. I believe she left the company.</p> <p>8 Q. And no one else did it instead of</p> <p>9 Maggie Perritt?</p> <p>10 MS. McENROE: Objection to form.</p> <p>11 THE WITNESS: I believe there was</p> <p>12 a lapse somewhere in the process to</p> <p>13 replace her. It wasn't an automatic</p> <p>14 person that came on board.</p> <p>15 MS. McENROE: When you got a</p> <p>16 chance, we have been going about an hour,</p> <p>17 for a quick break.</p> <p>18 MR. POWERS: Okay. I got it.</p> <p>19 Just a couple more questions on this</p> <p>20 line.</p> <p>21 MS. McENROE: Sure.</p> <p>22 - - -</p> <p>23 (Deposition Exhibit No. Rite</p> <p>24 Aid-Hart-11, Email chain, top one dated</p>

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<p>1 2002-05-14, Bates stamped</p> <p>2 Rite_Aid_OMDL_0046770 through</p> <p>3 Rite_Aid_OMDL_0046789, was marked for</p> <p>4 identification.)</p> <p>5 - - -</p> <p>6 BY MR. POWERS:</p> <p>7 Q. I should have asked you.</p> <p>8 Are you okay to go a few more</p> <p>9 minutes?</p> <p>10 A. (Witness nods head.)</p> <p>11 Q. I'm going to hand you what's</p> <p>12 marked Exhibit 11. It's a document, an email and</p> <p>13 attachment, Bates number Rite_Aid_OMDL_0046770</p> <p>14 through 46789.</p> <p>15 A. (Reviewing document.)</p> <p>16 Q. Are you familiar with the</p> <p>17 document in Exhibit 11?</p> <p>18 A. (Reviewing document.)</p> <p>19 Q. I'll say that I'm not going to</p> <p>20 ask you direct questions about the email</p> <p>21 attachment.</p> <p>22 I'm just saying, are you</p> <p>23 generally familiar with this document in</p> <p>24 Exhibit 11?</p>	<p>1 above that. Right?</p> <p>2 A. That is correct.</p> <p>3 Q. And then you -- then you forward</p> <p>4 it on to Christopher Belli at the very top there.</p> <p>5 Do you see that?</p> <p>6 A. Yes.</p> <p>7 Q. Why did you forward this along to</p> <p>8 Christopher Belli?</p> <p>9 A. At this particular time, Chris</p> <p>10 Belli had replaced Kevin Mitchell and was</p> <p>11 responsible for the DEA coordinators and</p> <p>12 logistics side of it.</p> <p>13 Q. And you ask Christopher Belli,</p> <p>14 "Did you set up the webinar and/or visit?"</p> <p>15 Do you see that?</p> <p>16 A. I did.</p> <p>17 Q. What were you referring to when</p> <p>18 you said that?</p> <p>19 A. I don't remember.</p> <p>20 Q. And it looks like the attachment</p> <p>21 to the email is another document from the Cegedim</p> <p>22 organization. Right?</p> <p>23 A. Yes.</p> <p>24 Q. And that's the same one we've</p>
<p style="text-align: center;">Page 203</p> <p>1 A. Yes.</p> <p>2 Q. It looks like in the first page,</p> <p>3 on the first and second page, the emails,</p> <p>4 Exhibit 11, it looks like the first one in the</p> <p>5 string is from Gerald Haas to a group of people.</p> <p>6 Do you see that?</p> <p>7 A. Yes.</p> <p>8 Q. At the bottom of the first page?</p> <p>9 A. Yes.</p> <p>10 Q. Who is Gerald Haas?</p> <p>11 A. I don't remember Gerald.</p> <p>12 Q. He says, "Attached is a</p> <p>13 presentation that was given to me by the</p> <p>14 Liverpool DEA team from their recent" attendant</p> <p>15 "at a conference."</p> <p>16 Do you see that?</p> <p>17 A. I do.</p> <p>18 Q. And then right above Gerald's</p> <p>19 email, William Miller emails the same -- forwards</p> <p>20 the same email and the attached presentation to</p> <p>21 Sophia Lai. Right?</p> <p>22 A. That is correct.</p> <p>23 Q. And Sophie Lai then goes -- goes</p> <p>24 ahead and forwards on that same email to you</p>	<p style="text-align: center;">Page 205</p> <p>1 been talking about, the Buzzeo people. Right?</p> <p>2 A. Yes.</p> <p>3 Q. So were you asking whether or not</p> <p>4 Chris Belli was setting up webinars and visits</p> <p>5 with the Buzzeo folks?</p> <p>6 A. It could be.</p> <p>7 Q. Do you know if he ever did that?</p> <p>8 A. I don't remember.</p> <p>9 Before we go back to -- go to</p> <p>10 another document, may I go back and expand upon</p> <p>11 an answer to a past question?</p> <p>12 Q. Sure.</p> <p>13 A. You had asked me the question,</p> <p>14 had Rite Aid sought guidance from the DEA or had</p> <p>15 gotten any comments from the DEA.</p> <p>16 The Perryman Distribution Center</p> <p>17 was inspected by the DEA in 2005, 2009 and 2012.</p> <p>18 As the standard operating procedures and the</p> <p>19 suspicious order monitoring programs were</p> <p>20 reviewed at all of those times, and there was no</p> <p>21 deficiencies noted. I just wanted to make that</p> <p>22 part of the record, to say -- when I say we</p> <p>23 didn't seek DEA guidance, but we had the DEA that</p> <p>24 went to the distribution centers and did some</p>

<p style="text-align: right;">Page 206</p> <p>1 inspections.</p> <p>2 Q. Were you present at any of those</p> <p>3 DEA audits?</p> <p>4 A. I was not.</p> <p>5 Q. So you don't have any firsthand</p> <p>6 knowledge of those audits, do you?</p> <p>7 MS. McENROE: Objection to form.</p> <p>8 THE WITNESS: I have -- there's</p> <p>9 various emails and communications from</p> <p>10 the individuals that were at the DEA</p> <p>11 audits.</p> <p>12 BY MR. POWERS:</p> <p>13 Q. But you didn't talk to any of the</p> <p>14 DEA agents who did the inspections, did you?</p> <p>15 A. Not that I remember.</p> <p>16 Q. So all the information that you</p> <p>17 learned about those DEA audits was from someone</p> <p>18 at the distribution center itself?</p> <p>19 A. That is correct.</p> <p>20 MS. McENROE: Will, before we</p> <p>21 move to another document, can we take a</p> <p>22 comfort break?</p> <p>23 MR. POWERS: Sure.</p> <p>24 THE VIDEOGRAPHER: Going off the</p>	<p style="text-align: right;">Page 208</p> <p>1 A. When I had the Baltimore market,</p> <p>2 that was also Don's area from the DEA. So he</p> <p>3 would visit stores or seek prescriptions, things</p> <p>4 like that.</p> <p>5 Q. When you say you had the</p> <p>6 Baltimore market, what time period was that from?</p> <p>7 A. That was prior to 1995 when I</p> <p>8 moved into the corporate office.</p> <p>9 Q. So you knew him from your time in</p> <p>10 Baltimore. Right?</p> <p>11 A. I did.</p> <p>12 Q. So that would have been sometime</p> <p>13 before '95. Right?</p> <p>14 A. Yes.</p> <p>15 Q. So you knew Don Tush for a while</p> <p>16 before he audited the Perryman facility in 2012.</p> <p>17 Right?</p> <p>18 MS. McENROE: Objection to form.</p> <p>19 THE WITNESS: Yes. But then I</p> <p>20 moved out of the area to Camp Hill.</p> <p>21 BY MR. POWERS:</p> <p>22 Q. I'm going to hand you what's been</p> <p>23 marked as Hart Exhibit 12. It's some emails with</p> <p>24 the Bates stamp Rite_Aid_OMDL_0013345 through</p>
<p style="text-align: right;">Page 207</p> <p>1 record at 2:30.</p> <p>2 - - -</p> <p>3 (A recess was taken from</p> <p>4 2:30 p.m. to 2:51 p.m.)</p> <p>5 - - -</p> <p>6 THE VIDEOGRAPHER: Back on the</p> <p>7 record at 2:51 p.m.</p> <p>8 BY MR. POWERS:</p> <p>9 Q. Right before the break we were</p> <p>10 talking about DEA inspectors. Right?</p> <p>11 A. Yes.</p> <p>12 Q. Do you know any DEA inspectors</p> <p>13 personally?</p> <p>14 A. I know a lot of DEA inspectors.</p> <p>15 Q. Do you know any DEA -- do you</p> <p>16 know -- let me back up here.</p> <p>17 Those DEA inspectors that you</p> <p>18 know personally, do you know any of them who</p> <p>19 audited the Perryman Distribution Center?</p> <p>20 A. I do know one of the DEA agents</p> <p>21 that audited Perryman.</p> <p>22 Q. Who was that?</p> <p>23 A. Doug -- Don Tush.</p> <p>24 Q. How do you know Don Tush?</p>	<p style="text-align: right;">Page 209</p> <p>1 3346.</p> <p>2 - - -</p> <p>3 (Deposition Exhibit No. Rite</p> <p>4 Aid-Hart-12, Email chain, top one dated</p> <p>5 2012-07-11, Bates stamped</p> <p>6 Rite_Aid_OMDL_0013345 and</p> <p>7 Rite_Aid_OMDL_0013346, was marked for</p> <p>8 identification.)</p> <p>9 - - -</p> <p>10 BY MR. POWERS:</p> <p>11 Q. Take a look at that.</p> <p>12 A. (Reviewing document.)</p> <p>13 Q. Looking at Exhibit 12, it looks</p> <p>14 like this is an email exchange between -- or</p> <p>15 starting with, on the second page of Exhibit 12,</p> <p>16 starting with an email from Chris Belli to you</p> <p>17 copying Rick Chapman and Keith Frost. Right?</p> <p>18 A. Yes.</p> <p>19 Q. And it looks that Chris Belli is</p> <p>20 letting you know that the DEA just arrived in</p> <p>21 Perryman for an inspection. Right?</p> <p>22 A. Yes.</p> <p>23 Q. And that inspection he's</p> <p>24 referring to in this email in Exhibit 12, that's</p>

1 the 2012 audit by the DEA of the Perryman 2 facility? 3 A. Yes. 4 Q. Then on the first page of Exhibit 5 12, the second email from the bottom is from 6 Keith Frost to you and Christopher Belli. Right? 7 A. Yes. And Rick Chapman. 8 Q. And copying Rick Chapman. Right. 9 And in that email, Keith Frost 10 says, "Janet, Donald Tush sends his regards." 11 Do you see that? 12 A. I do. 13 Q. And then you respond to Keith's 14 email by saying, immediately above that, "Did all 15 go OK? I have known him a long time....send mine 16 to him as well." 17 Do you see that? 18 A. I do. 19 Q. So you knew Donald Tush well 20 enough that he was sending his regards to you. 21 Right? 22 A. Yes. We worked very closely on 23 many matters, even to this day. 24 Q. Do you consider Donald Tush a	Page 210 1 expertise. 2 BY MR. POWERS: 3 Q. Do you know if the Buzzeo 4 organization had former DEA employees in its 5 employment? 6 A. They did. 7 Q. Rite Aid used the Buzzeo 8 organization to perform some audits at the 9 distribution center, at least the distribution 10 center in Perryman. Right? 11 A. We did. 12 Q. So if Buzzeo did not have the 13 expertise, why did you allow -- why did Rite Aid 14 allow Buzzeo to come do audits? 15 MS. McENROE: Objection. 16 THE WITNESS: He was -- the 17 Buzzeo organization had knowledge of the 18 rules and laws and regulations. And many 19 times, it's much better to have someone 20 with eyes from the outside come in and 21 look at your operations and do an audit 22 and review, as a second set of eyes 23 looking at your policies and procedures. 24 BY MR. POWERS:	Page 212 Page 211 1 personal friend? 2 A. No. 3 Q. And you also send your regards 4 back to Don Tush. Right? 5 A. I did. 6 Q. Did you ever discuss this audit 7 with Don Tush? 8 A. I did not. 9 Q. Did you ever discuss the 2012 10 audit with any DEA employee? 11 A. I did not. 12 Q. You can put that exhibit to the 13 side. 14 Before the break, we were also 15 talking about the Buzzeo organization. Correct? 16 A. Correct. 17 Q. And the Buzzeo organization had 18 expertise in things like suspicious order 19 monitoring. Correct? 20 MS. McENROE: Objection to form. 21 THE WITNESS: I'm not sure that I 22 would say that they had expertise. I 23 think they had presentations and 24 programs. I'm not sure they had	Page 213 1 Q. Do you consider Buzzeo's 2 knowledge of the rules and laws and regulations 3 not to be expertise? 4 MS. McENROE: Objection to form. 5 THE WITNESS: I think they are 6 one of the industry-leading companies 7 that have products that they sell to 8 pharmacies and distribution centers to go 9 out and do audits and accountabilities. 10 - - - 11 (Deposition Exhibit No. Rite 12 Aid-Hart-13, Email dated 2012-05-18, 13 Bates stamped Rite_Aid_OMDL_0046855 14 through Rite_Aid_OMDL_0046875, was marked 15 for identification.) 16 - - - 17 BY MR. POWERS: 18 Q. I'm going to hand you what's been 19 marked Rite Aid-Hart Exhibit 13. The Bates 20 number on this exhibit is Rite_Aid_OMDL_46855 21 through 46875. It's an email and an attachment. 22 Why don't you take a look at 23 that. 24 A. (Reviewing document.)
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<p style="text-align: right;">Page 214</p> <p>1 Q. Once again, this is a multi-page 2 document. I'm going to tell you, I'm going to 3 ask questions about the email and only particular 4 pages in the attachment, if that helps your 5 review.</p> <p>6 A. Pardon me. The first page and 7 what other pages?</p> <p>8 Q. Please feel free to review the 9 attachments to the extent you need to, but I will 10 only be asking questions about a couple 11 particular pages that we can -- that I can 12 identify to you when we get to them.</p> <p>13 A. Okay.</p> <p>14 (Reviewing document.)</p> <p>15 Q. So the first page of Exhibit 13, 16 it looks like an email. Right?</p> <p>17 A. Yes.</p> <p>18 Q. It looks like it's from someone 19 named Dave Jakubowski at Cegedim; is that right?</p> <p>20 A. Yes.</p> <p>21 Q. Who is Dave Jakubowski?</p> <p>22 A. I'm going to guess a salesperson.</p> <p>23 Q. This email was addressed to you 24 and Chris Belli. Correct?</p>	<p style="text-align: right;">Page 216</p> <p>1 A. If the email says he did, then he 2 did.</p> <p>3 Q. You have no reason to believe 4 otherwise. Right?</p> <p>5 A. Right.</p> <p>6 Q. And then he looks like he says in 7 the second paragraph, the last sentence there, 8 "I've included a PDF copy of the slides from our 9 WebEx for your reference."</p> <p>10 Do you see that?</p> <p>11 A. Pardon? Where is that?</p> <p>12 Q. It's actually highlighted on the 13 screen in front of you too if that's easier to 14 see, but it's the second sentence in the second 15 paragraph.</p> <p>16 A. Yes.</p> <p>17 Q. It looks like there's an 18 attachment to this email entitled "Cegedim Buzzeo 19 PDMA SOM Compliance Solutions presentation.pdf."</p> <p>20 Do you see that?</p> <p>21 A. Yes.</p> <p>22 Q. I believe that's the attachment 23 reflected in the other pages of Exhibit 13.</p> <p>24 Does that make sense to you?</p>
<p style="text-align: right;">Page 215</p> <p>1 A. Yes.</p> <p>2 Q. And the email starts, "Hello 3 Janet and Chris, Once again, thanks for taking 4 time from your busy schedules to participate in 5 our SOM presentation and discussion this 6 morning."</p> <p>7 Do you see that?</p> <p>8 A. I do.</p> <p>9 Q. And in there when it says "SOM," 10 I take that to mean suspicious order monitoring 11 presentation.</p> <p>12 Do you agree?</p> <p>13 A. I agree.</p> <p>14 Q. Do you know what led to the 15 suspicious order monitoring presentation that was 16 given by Dave Jakubowski to you and Chris Belli?</p> <p>17 MS. McENROE: Objection to form.</p> <p>18 THE WITNESS: I don't really 19 know.</p> <p>20 BY MR. POWERS:</p> <p>21 Q. Do you recall that Dave -- that 22 Mr. Dave Jakubowski gave you and Chris Belli a 23 presentation about suspicious order monitoring in 24 2012?</p>	<p style="text-align: right;">Page 217</p> <p>1 A. Yes.</p> <p>2 Q. Further down in the first page of 3 Exhibit 13, he says, Mr. Jakubowski says in the 4 fourth paragraph, "I have had the pleasure of 5 meeting and having dinner with Mike Podgurski and 6 Tammy Royer during the NACDS closing ceremony 7 event in Boston last year."</p> <p>8 Do you see that?</p> <p>9 A. Yes.</p> <p>10 Q. Who is Tammy Royer?</p> <p>11 A. She was an SVP of pharmacy 12 operations.</p> <p>13 Q. What role would she have with 14 regards to suspicious order monitoring?</p> <p>15 MS. McENROE: Objection to form.</p> <p>16 THE WITNESS: I don't necessarily 17 know that Tammy would necessarily be 18 involved in suspicious order monitoring. 19 Buzzeo has a plethora of programs that 20 impact dispensing of prescriptions, 21 recordkeeping at pharmacies. So in that 22 respect, she would be involved with them.</p> <p>23 BY MR. POWERS:</p> <p>24 Q. And then later on in that same</p>

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<p>1 paragraph we were just looking at, it says, 2 "Since Ron Buzzeo has in the past worked with 3 Mike, Tammy, and you Janet, I'm certain if" 4 this -- "if his schedule allows, he would like to 5 be there too."</p> <p>6 Do you see that?</p> <p>7 A. I do.</p> <p>8 Q. What work did you do with Ron 9 Buzzeo?</p> <p>10 MS. McENROE: Objection to form.</p> <p>11 THE WITNESS: I think between 12 myself and Jim Krahulec, we may have done 13 a few things with Ron, which is how I got 14 to know him. I don't know that -- I 15 can't remember specifically what we did 16 with him.</p> <p>17 BY MR. POWERS:</p> <p>18 Q. Do you know what work Mike did 19 with Ron Buzzeo referred to here in this 20 sentence?</p> <p>21 A. I do not know. Again, I think 22 it's related to controlled substances. Everybody 23 in all the departments would come together and 24 they may go to a meeting and discuss controlled</p>	<p>1 put together a proposal and budgetary pricing for 2 a high level assessment of your current SOM 3 program for your consideration if you should 4 decide to have a professional outside consultant 5 review and report for future planning and process 6 improvements to your internal systems and 7 statistical model."</p> <p>8 Do you see that?</p> <p>9 A. I see it.</p> <p>10 Q. Do you know if Rite Aid ever went 11 forward with this Buzzeo proposal to perform a 12 high level assessment of the Rite Aid SOM 13 program?</p> <p>14 A. I do not believe we did.</p> <p>15 Q. Do you know why Rite Aid did not 16 go forward with the Buzzeo assessment of its SOM 17 program?</p> <p>18 MS. McENROE: Object to the form.</p> <p>19 THE WITNESS: I believe that part 20 of this particular looking at the 21 proposal or looking at the SOM was to 22 make a comparison between what Buzzeo was 23 offering and what Rite Aid already had in 24 place. And at that particular time, we</p>
<p>1 substances.</p> <p>2 Q. But you don't know specifically 3 what work Ron Buzzeo did for or with Mike?</p> <p>4 A. Well, it doesn't really say that 5 he did work. The sentence says, I had the 6 pleasure of meeting and having dinner with Mike 7 and Tammy. It doesn't necessarily say that he 8 worked with them.</p> <p>9 Q. The sentence says, "Since Ron 10 Buzzeo has in the past worked with" --</p> <p>11 A. Oh, yeah. Sorry.</p> <p>12 Q. -- "Mike, Tammy, and you Janet."</p> <p>13 So I take that to mean that he --</p> <p>14 that Ron Buzzeo has in fact worked with Mike. 15 Right?</p> <p>16 A. You are correct. I apologize.</p> <p>17 Q. So do you know specifically what 18 work Ron Buzzeo did with Mike Podgurski?</p> <p>19 A. I do not.</p> <p>20 Q. Do you know what work Ron Buzzeo 21 did with Tammy Royer?</p> <p>22 A. I do not.</p> <p>23 Q. Moving down in this email to the 24 last paragraph, it says, "Paul Hamby and I will</p>	<p>1 determined that what we had in place was 2 sufficient.</p> <p>3 BY MR. POWERS:</p> <p>4 Q. You say at that particular time. 5 That would have been in 2012?</p> <p>6 A. Yes.</p> <p>7 Q. Did you -- did some of the 8 previous exhibits we talked about where you met 9 with Maggie Perritt and Andy Palmer, those 10 meetings about the suspicious order monitoring 11 program at Rite Aid were in 2010. Right?</p> <p>12 A. That is correct.</p> <p>13 Q. Did you do a separate analysis of 14 whether the Rite Aid program was sufficient in 15 2012?</p> <p>16 A. I believe we had internal 17 discussions of the individuals involved after the 18 presentation.</p> <p>19 Q. Were those discussions recorded 20 anywhere?</p> <p>21 A. To the best of my knowledge, no.</p> <p>22 Q. Were those discussions held in 23 person?</p> <p>24 A. Yes.</p>

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<p>1 Q. Where were they held? 2 A. At the corporate office where 3 everybody is located. 4 Q. Who would have participated in 5 those discussions about this suspicious order 6 monitoring system in 2012? 7 A. Chris, myself, perhaps Sophia or 8 Andy, depending on who was in asset protection at 9 that time. Maybe perhaps someone from pharmacy 10 operations.</p> <p>11 The thing to understand with this 12 is Buzzeo is one vendor that's out there. There 13 are other vendors as well.</p> <p>14 Q. Did Rite Aid ever use any other 15 vendor to evaluate its suspicious order 16 monitoring program?</p> <p>17 A. We did not.</p> <p>18 Q. Did Rite Aid ever get the 19 proposal and pricing referred to here in the last 20 paragraph of Exhibit 13?</p> <p>21 A. I did not see a proposal.</p> <p>22 Q. I want to direct your attention 23 to page with the Bates number 46868 of 24 Exhibit 13.</p>	<p>1 Q. So it looks like Buzzeo is saying 2 here, in 2012, that a suspicious order monitoring 3 system cannot be threshold based. Right? 4 MS. McENROE: Objection to form. 5 THE WITNESS: That is what's 6 stated on the slide.</p> <p>7 BY MR. POWERS:</p> <p>8 Q. Then on that page 46869 again, it 9 says that the "SOM Model" heading there -- under 10 the "SOM Model" heading there, it says, 11 "Statistically based model" is "highly 12 recommended." Right?</p> <p>13 A. That is correct.</p> <p>14 Q. And Rite Aid used, at this time 15 in 2012 and in fact since, the entire time you've 16 been at Rite Aid, a threshold-based system as 17 part of its suspicious order monitoring. Right?</p> <p>18 MS. McENROE: Objection to form. 19 THE WITNESS: The threshold was 20 one component of the program. It was not 21 the entire suspicious order monitoring 22 program. Statistically-based model that 23 is highly recommended is built into our 24 automatic replenishment system. It's</p>
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<p>1 Are you there? 2 A. Yes. 868? 3 Q. Correct. 4 A. Uh-huh. 5 Q. And it looks like this -- this 6 page is part of the presentation that was given 7 to you and Chris Belli in 2012; is that right? 8 A. Yes. 9 Q. And the title of this slide is 10 "Suspicious Order Monitoring-Challenges." Right? 11 A. Yes. 12 Q. And then the second one -- or, 13 I'm sorry, excuse me. 14 The first bullet point there says 15 "Is an order size 'threshold' system sufficient?" 16 Do you see that? 17 A. I do. 18 Q. And then on the second page -- 19 or, excuse me, the next page, 46869, it looks 20 like Buzzeo answers that question and says in the 21 bullet point -- or the list entitled "SOM Model," 22 it says, "Can not be threshold based." 23 Do you see that? 24 A. I do.</p>	<p>1 looking at individual drugs and 2 individual pharmacies for their order 3 statistics and their order parameters. 4 So two of the components that you have 5 just identified are part of the Rite Aid 6 suspicious order monitoring program.</p> <p>7 BY MR. POWERS:</p> <p>8 Q. The other thing on the previous 9 page 46868 says, the second bullet point, "Can 10 orders be 'cut' to allow product to be shipped 11 (vs. triggering SOM flags)?" 12 Do you see that? 13 A. I do. 14 Q. Do you know if Buzzeo advised 15 that the orders should not be cut to allow 16 products to be shipped? 17 A. I do not know. 18 Q. But Rite Aid did cut its orders 19 before shipping them to get them below the 20 threshold. Right? 21 MS. McENROE: Objection to form. 22 THE WITNESS: The orders that 23 were cut were orders based upon our own 24 thresholds established. There's --</p>

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1 that's not necessarily a suspicious 2 order. And again, it would have been 3 generated by our own computer algorithm 4 for an individual store. 5 BY MR. POWERS: 6 Q. But my question is just simply, 7 Rite Aid did cut its orders to get them below the 8 5,000 dosage unit threshold. Right? 9 MS. McENROE: Objection to form. 10 THE WITNESS: We cut the orders 11 to 5,000 dosage units. 12 BY MR. POWERS: 13 Q. I'm going to hand you what's been 14 marked as Rite Aid Hart Exhibit 14. It's an 15 email exchange, 38054 through 38055. 16 Take a look at that. 17 - - - 18 (Deposition Exhibit No. Rite 19 Aid-Hart-14, Email chain, top one dated 20 2012-12-18, Bates stamped 21 Rite_Aid_OMDL_0038054 and 22 Rite_Aid_OMDL_0038055, was marked for 23 identification.) 24 - - -	1 Do you see that? 2 A. I do. 3 Q. What DEA conference is she 4 referring to here? 5 A. I believe that was a conference 6 that Chris Belli had put together for all of the 7 DEA coordinators to come together and have 8 everybody's level set with having different 9 people present different things to them. 10 Q. Did you present at that 11 conference? 12 A. I believe I did. 13 Q. Did you talk about threshold 14 amounts at that conference? 15 A. I don't remember. 16 Q. And it looks like Jessica Ruffin 17 is asking you to confirm the threshold amounts. 18 Right? 19 A. Yes. 20 Q. And it looks like she has a list 21 there. 22 " liquids -- 50 bottles; Pills -- 23 [REDACTED] [REDACTED] 24 Suboxone Film -- 5000 doses." Right?
Page 227	Page 229
1 THE WITNESS: (Reviewing 2 document.) 3 BY MR. POWERS: 4 Q. It looks like the document 5 reflected in Exhibit 14 starts with an email from 6 Jessica Ruffin to you, copying Jennifer Wyatt, 7 Patricia Jones and William Walker. Right? 8 A. Yes. 9 Q. Who is Jessica Ruffin? 10 A. An associate at Liverpool 11 Distribution Center. 12 Q. At the bottom, her signature 13 says, "Distribution Center #35." Right? 14 A. Yes. I believe that's -- oh, 15 maybe that's Tuscaloosa. 16 Q. I believe it is Tuscaloosa. 17 Do you know if Jessica Ruffin was 18 the DEA coordinator at the Tuscaloosa facility? 19 A. I don't remember. 20 Q. And Jessica Ruffin writes to you, 21 "Janet, Can you please confirm the threshold 22 amounts that we discussed at the DEA conference 23 so that we can have something to put in our 24 files?"	1 A. Yes. 2 Q. And she's asking for a 3 confirmation of those threshold limits so she can 4 put it in her files. Right? 5 A. Yes. 6 Q. Was it not a standard operating 7 procedure of Rite Aid to have the threshold 8 limits in the files of the distribution centers? 9 MS. McENROE: Objection to form. 10 THE WITNESS: They should be in 11 the distribution centers, yes. 12 BY MR. POWERS: 13 Q. And the threshold amounts haven't 14 changed the entire time you were at Rite Aid. 15 Right? 16 MS. McENROE: Objection to form. 17 THE WITNESS: They have not. 18 BY MR. POWERS: 19 Q. So why does Jessica Ruffin not 20 know what the threshold amounts were? 21 MS. McENROE: Objection, form. 22 THE WITNESS: There was some 23 confusion about the Suboxone film 24 tablets. Those particular medications

<p style="text-align: right;">Page 230</p> <p>1 come in bottles of 30 pills only. So 2 there was some question as to what was 3 out there, the number of bottles that 4 were in some of the policies and 5 procedures. And stores that needed the 6 product were getting back, based on the 7 number of bottles, when three bottles 8 would equal one of another bottle.</p> <p>9 So there was some discussion 10 about putting the 5,000 doses on there to 11 clear that particular item up.</p> <p>12 BY MR. POWERS:</p> <p>13 Q. And so far we've been mostly 14 talking about the 5,000 dosage unit thresholds, 15 but it looks like here she's asking -- Jessica 16 Ruffin is asking for the threshold limits in 17 number of bottles or boxes. Right?</p> <p>18 A. Liquids?</p> <p>19 Q. Well, it says, yeah, liquids 20 50 bottles, pills 5,000. It doesn't have a unit 21 there.</p> <p>22 A. Yeah. The difference there is 23 that is pseudoephedrine, which is a List I 24 chemical, not a controlled substance. That was</p>	<p style="text-align: right;">Page 232</p> <p>1 on how the individual liquids are 2 manufactured.</p> <p>3 BY MR. POWERS:</p> <p>4 Q. Whose responsibility was it to 5 translate the dosage units, the 5,000 dosage unit 6 threshold, into the particular item's form, shall 7 we say?</p> <p>8 MS. McENROE: Objection.</p> <p>9 THE WITNESS: For the liquids, 10 the bottle limit was 50 bottles. 11 However, that one sometimes was high and 12 that would be cut back.</p> <p>13 BY MR. POWERS:</p> <p>14 Q. But my question, really I'm just 15 trying to understand, if the distribution center 16 limit is 5,000 dosage units. Right?</p> <p>17 A. (Witness nods head.)</p> <p>18 Q. Was it up to the distribution 19 centers -- each individual distribution center to 20 figure out how to calculate what constituted 21 5,000 dosage units in terms of pills, bottles, 22 tabs, et cetera?</p> <p>23 MS. McENROE: Objection to form.</p> <p>24 THE WITNESS: It was not their</p>
<p style="text-align: right;">Page 231</p> <p>1 different than a controlled substance 5,000 2 tablet limit. [REDACTED] [REDACTED] tablets a week to any given store in 4 an order.</p> <p>5 Q. You said 5,000 tablet limit. 6 Is it a 5,000 tablet limit or a 7 5,000 dosage unit?</p> <p>8 A. Dosage unit limit.</p> <p>9 Q. Was there confusion at the 10 distribution centers about how to calculate what 11 constituted a dosage unit?</p> <p>12 MS. McENROE: Objection to form.</p> <p>13 THE WITNESS: There is confusion 14 in the industry about what to calculate 15 as a dosage unit. For example, liquids, 16 they're at 50 bottles. You can have a 17 dose in a liquid where you have the 18 active ingredient of 5 milligrams of a 19 drug in a teaspoon, which may be a dose, 20 or you can have a dose with 5 milligrams 21 of an active ingredient in a tablespoon, 22 which could be a dose.</p> <p>23 So calculating dose from liquid 24 to liquid to liquid is difficult, based</p>	<p style="text-align: right;">Page 233</p> <p>1 determination or not their job to 2 calculate the liquids. They basically 3 based it on tablets and capsules and pill 4 forms versus the milliliters or the 5 liquid form.</p> <p>6 BY MR. POWERS:</p> <p>7 Q. Putting liquids aside for a 8 second, what about just regular pills.</p> <p>9 Whose responsibility was it to 10 calculate what constituted 5,000 dosage units?</p> <p>11 A. It was the distribution center's 12 pickers that would establish if there was 5,000 13 dosage units.</p> <p>14 Q. So the distribution center 15 associates would be the ones who have to figure 16 out how many bottles a particular controlled 17 substance would equal 5,000 dosage units; is that 18 right?</p> <p>19 A. Yes. Through the formula that we 20 looked at on one of the forms earlier. I think 21 it was the picker form that they signed that 22 talked about the 10 bottles, 100 bottles, the 23 50 bottles, based on that.</p> <p>24 Q. And that was Exhibit 3, I</p>

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<p>1 believe, the Controlled Drug Above Average Order 2 Monitoring? 3 A. Yes. 4 Q. Did you provide guidance about 5 how to calculate the number of bottles that 6 equaled 5,000 dosage units? 7 A. I may have on individual 8 products, but there's -- there are a tremendous 9 number of liquids to do calculations on. So 10 simply stating the 50 bottles was the best of all 11 solutions. 12 Q. Then going back to the first page 13 of Exhibit 14 here, you write an email in the 14 middle of the page replying to Jessica Ruffin, 15 saying, "This sounds correct however we are 16 looking to change to true suspicious order 17 thresholds as soon as possible." 18 Do you see that? 19 A. I see that. 20 Q. You use the word "true suspicious 21 order thresholds." 22 Are those somehow different than 23 the 5,000 dosage unit threshold that we've been 24 talking about?</p>	<p>1 THE WITNESS: I believe that to 2 be the case, yes. 3 BY MR. POWERS: 4 Q. And Kevin Mitchell was concerned 5 about the thresholds that were in place at the 6 order -- at the Rite Aid suspicious order 7 monitoring program. Right? 8 MS. McENROE: Objection to form. 9 THE WITNESS: Kevin Mitchell 10 identified that in an email, that he was 11 concerned. Follow-up with that was Kevin 12 Mitchell identified that what we had in 13 place were correct and all we needed to 14 do was commit that to paper and so that 15 we could give a good tool to the 16 distribution centers to utilize. 17 BY MR. POWERS: 18 Q. But the words you chose to write 19 here were "change to true suspicious order 20 thresholds." Right? 21 A. That is correct. 22 Q. How come you didn't say we are 23 looking to combine our existing program? 24 MS. McENROE: Objection to form.</p>
Page 235	Page 237
<p>1 A. They are not different than the 2 overall program, which would be the 5,000 dosage 3 units, the algorithms, the asset protection side 4 of it. Together, that is our suspicious order 5 program. 6 Q. You say you're looking to change 7 to true suspicious orders. 8 How can you change to something 9 that is already in place? 10 A. We were looking to combine the 11 suspicious order program together, as we had 12 discussed previously, and make sure that 13 everything was aligned at that particular point 14 and everybody knew exactly what the program was. 15 Q. Because as you testified before, 16 some people did not understand exactly what the 17 program was. Right? 18 MS. McENROE: Objection to form. 19 THE WITNESS: Some people did not 20 understand the program in its entirety. 21 BY MR. POWERS: 22 Q. And one of those people was Kevin 23 Mitchell. Right? 24 MS. McENROE: Objection to form.</p>	<p>1 THE WITNESS: I don't know. 2 BY MR. POWERS: 3 Q. How come you didn't say we're 4 looking to simply explain our threshold program? 5 MS. McENROE: Objection to form. 6 THE WITNESS: I don't know. 7 BY MR. POWERS: 8 Q. You specifically chose to say 9 "change to true suspicious order thresholds." 10 Right? 11 A. I put that in the email, yes. 12 Q. Was that a result of your 13 conversations with the Buzzeo organization? 14 A. I don't believe so. The Buzzeo 15 association was in May and this email is in 16 December. So there would have been some 17 communication if we were going to go over that 18 period of time. 19 I think another piece of the 20 puzzle here also is, since we are healthcare 21 providers and we want our patients to get the 22 proper medications that they need and have our 23 pharmacists have the ability to dispense them, 24 that we wanted to make sure that our patients</p>

<p style="text-align: right;">Page 238</p> <p>1 weren't suffering by the threshold of the 5,000. 2 And so this was the beginning of where we were 3 looking to bring everything together and perhaps 4 enhance the program.</p> <p>5 Q. Did you ever -- did Rite Aid ever 6 change to true suspicious order thresholds, as 7 you referred to in this email?</p> <p>8 MS. McENROE: Object to form.</p> <p>9 THE WITNESS: We had suspicious 10 order programs in place. I don't believe 11 that we made any changes to the program.</p> <p>12 BY MR. POWERS:</p> <p>13 Q. And just to be clear, you never 14 made any changes to the suspicious order 15 monitoring program the entire time that Rite Aid 16 distributed controlled substances. Correct?</p> <p>17 MS. McENROE: Objection to form.</p> <p>18 THE WITNESS: That is correct.</p> <p>19 - - -</p> <p>20 (Deposition Exhibit No. Rite 21 Aid-Hart-15, Email dated 2013-09-04, 22 Bates stamped Rite_Aid_OMDL_0046648 23 through Rite_Aid_OMDL_0046662, was marked 24 for identification.)</p>	<p style="text-align: right;">Page 240</p> <p>1 it says, "Per our discussion I would like to set 2 up a conference call with you, Janet Hart, and 3 Sophia Lai to discuss SOM/drug diversion 4 compliance issues over the next couple of weeks 5 if possible."</p> <p>6 Do you see that?</p> <p>7 A. I do.</p> <p>8 Q. And once again, the SOM acronym 9 here, does that stand for suspicious order 10 monitoring?</p> <p>11 A. It does.</p> <p>12 Q. Did you ever set up the 13 discussion that Ed Harris refers to in this 14 sentence?</p> <p>15 A. I don't believe so.</p> <p>16 Q. Why not?</p> <p>17 A. Again, we had been reviewing our 18 suspicious order monitoring program, had talked 19 about it, as you've identified in the 20 communications presented, and did not have the 21 need to have a meeting with him. To the best of 22 my knowledge, I don't remember it occurring.</p> <p>23 Part of the reason why Tammy is 24 the individual that this was addressed to is that</p>
<p style="text-align: right;">Page 239</p> <p>1 - - -</p> <p>2 BY MR. POWERS:</p> <p>3 Q. I'm going to hand you what's been 4 marked as Rite Aid-Hart Exhibit 15. This is an 5 email, again with some attachments. The Bates 6 numbers on this exhibit are Rite_Aid_OMDL_0046648 7 through 46662.</p> <p>8 And I'm going to try to do the 9 same thing as we've done with some of these other 10 emails with long attachments. I'm just going to 11 ask you about the initial email and just a 12 particular couple pages that are attached to the 13 email.</p> <p>14 A. (Reviewing document.)</p> <p>15 Q. Have you had a chance to review 16 Exhibit 15?</p> <p>17 A. I have.</p> <p>18 Q. So it looks like the cover page 19 of Exhibit 15 is an email from Ed Harris at 20 Buzzeo PDMA to Tammy Royer. And it cc's you and 21 Sophia Lai. Right?</p> <p>22 A. Correct.</p> <p>23 Q. And in the middle of the 24 paragraph there on the first page of Exhibit 15,</p>	<p style="text-align: right;">Page 241</p> <p>1 I typically did not attend the NACDS conference. 2 Sophia did not attend the NACDS conference. So 3 we were not there to have the communication.</p> <p>4 Q. You mentioned NACDS before as a 5 resource that you used to determine how Rite Aid 6 was to comply with various regulations regarding 7 controlled substances, though. Right?</p> <p>8 A. Yes.</p> <p>9 Q. But you didn't attend the 10 conferences for NACDS?</p> <p>11 A. Certain individuals from our 12 corporation attended the conferences. I myself 13 may have attended one or two. But traditionally 14 that was not within my scope, as there were all 15 different things at those particular meetings. 16 There are hundreds of vendors with counting 17 machines and other types of automation and just 18 not what was within my job description.</p> <p>19 Q. So even though you relied on 20 NACDS to inform your interpretation of various 21 regulations regarding controlled substances, you 22 thought it was not necessary to go to their 23 conferences; is that right?</p> <p>24 MS. McENROE: Objection to form.</p>

<p style="text-align: right;">Page 242</p> <p>1 THE WITNESS: Not go to their 2 conferences, but there were work groups, 3 conference calls, other types of 4 communications that were participated in. 5 Simply to go to a conference was not in 6 my best interest of time, since the 7 portion of what's at the conference 8 related to my position was very, very 9 limited.</p> <p>10 BY MR. POWERS:</p> <p>11 Q. And turn to the second page of 12 Exhibit 15, second and third pages, I guess, 13 Bates number 46649 and 46650.</p> <p>14 Do you see those pages?</p> <p>15 A. I do.</p> <p>16 Q. Do you recognize this particular 17 document and those two pages?</p> <p>18 A. I have seen the document.</p> <p>19 Q. When was the last time you saw 20 this document?</p> <p>21 A. Within the last two days.</p> <p>22 Q. When was the first time you saw a 23 document -- this document?</p> <p>24 A. Probably at a meeting with</p>	<p style="text-align: right;">Page 244</p> <p>1 controlled substances."</p> <p>2 Do you see that?</p> <p>3 A. I see that.</p> <p>4 Q. And Rite Aid was a DEA 5 registrant. Right?</p> <p>6 MS. McENROE: Objection to form.</p> <p>7 THE WITNESS: We were.</p> <p>8 BY MR. POWERS:</p> <p>9 Q. Did each distribution center have 10 its own DEA registration?</p> <p>11 A. They did.</p> <p>12 Q. So do you know if this particular 13 letter that was sent to every registrant was sent 14 to every distribution center at Rite Aid?</p> <p>15 A. I'm going to go back and clarify 16 my answer to the previous question.</p> <p>17 Not all Rite Aid distribution 18 centers had DEA numbers. There were a limited 19 number of them that had a DEA number.</p> <p>20 Q. Were there Rite Aid distribution 21 centers that did not distribute controlled 22 substances?</p> <p>23 A. Yes.</p> <p>24 Q. Did every Rite Aid distribution</p>
<p style="text-align: right;">Page 243</p> <p>1 counsel prior -- as preparation prior to the last 2 two days.</p> <p>3 Q. I don't want to get into what you 4 discussed with counsel, but before meeting with 5 counsel and being shown this document, what was 6 the -- did you ever see this document before 7 that?</p> <p>8 A. I don't remember seeing the 9 document.</p> <p>10 Q. Do you know if Rite Aid received 11 this document in pages 46649 and 46650, 12 Exhibit 15?</p> <p>13 MS. McENROE: Objection to form.</p> <p>14 THE WITNESS: I did not receive 15 or view the document at the corporate 16 office. I'm not sure if it went to the 17 distribution center or someone else 18 within the organization.</p> <p>19 BY MR. POWERS:</p> <p>20 Q. The first sentence on the first 21 page of this document says, "This letter is being 22 sent to every entity in the United States 23 registered with the Drug Enforcement 24 Administration (DEA) to manufacture or distribute</p>	<p style="text-align: right;">Page 245</p> <p>1 center that did distribute controlled substances 2 have a unique DEA registration number?</p> <p>3 A. They did.</p> <p>4 Q. Do you know if this letter 5 reflected here in Exhibit 15 from the DEA was 6 sent to every Rite Aid distribution center that 7 had a DEA registration number?</p> <p>8 A. From the first sentence of the 9 letter, it appears that it was sent to all 10 registrations, registrants, which would be the 11 Rite Aid distribution centers.</p> <p>12 Q. But you never saw this letter 13 yourself at the corporate office before starting 14 to prepare for this deposition with counsel?</p> <p>15 A. I do not remember seeing this 16 letter in 2007.</p> <p>17 Q. Well, I'm not asking you if you 18 saw it in 2007. I'm asking if you saw it at any 19 point before you started preparing for this 20 deposition?</p> <p>21 A. No.</p> <p>22 Q. Did you see any similar letters 23 to this one during your time working for Rite 24 Aid?</p>

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<p>1 MS. McENROE: Objection to form.</p> <p>2 THE WITNESS: Not that I</p> <p>3 remember. No, I'll take that back.</p> <p>4 There was a second letter that I</p> <p>5 had -- bless you.</p> <p>6 There was a second letter that I</p> <p>7 had looked at, at a different time sent</p> <p>8 by Mr. Rannazzisi.</p> <p>9 BY MR. POWERS:</p> <p>10 Q. Do you know the time frame when</p> <p>11 you looked at that letter?</p> <p>12 A. I looked at it at the same time I</p> <p>13 looked at this letter with counsel.</p> <p>14 Q. So just so we're clear, this 2007</p> <p>15 letter from Joseph Rannazzisi is a separate</p> <p>16 letter from the one you were talking about just</p> <p>17 now? There's two letters from Rannazzisi that</p> <p>18 you have seen as of today?</p> <p>19 A. Yes.</p> <p>20 Q. The 2007 letter reflected in</p> <p>21 Exhibit 15 you had not seen prior to beginning to</p> <p>22 prepare for this deposition. Right?</p> <p>23 A. That's correct.</p> <p>24 Q. How about the second letter from</p>	<p>1 much of a manual process. All the</p> <p>2 processes were there, but they were in</p> <p>3 different pieces. And we wanted to bring</p> <p>4 it all together in one site, so that it</p> <p>5 would be readily retrievable and the</p> <p>6 corporate offices and the coordinators at</p> <p>7 the DCs would have access to one</p> <p>8 particular portal site that would bring</p> <p>9 everything together. And in addition,</p> <p>10 perhaps enhance the process.</p> <p>11 BY MR. POWERS:</p> <p>12 Q. And why was it a problem that it</p> <p>13 was a manual process?</p> <p>14 MS. McENROE: Object to form.</p> <p>15 THE WITNESS: It was just time</p> <p>16 and labor intensive. There were numerous</p> <p>17 individuals working on different pieces</p> <p>18 of the process. And if you could put it</p> <p>19 into an electronic format where everybody</p> <p>20 could gain quick asset -- access, that</p> <p>21 would eliminate a lot of the manual</p> <p>22 processes.</p> <p style="text-align: center;">- - -</p> <p style="text-align: right;">(Deposition Exhibit No. Rite</p>
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<p>1 Mr. Rannazzisi, had you seen that letter before</p> <p>2 you began to prepare for this deposition?</p> <p>3 A. I had not.</p> <p>4 Q. So you have not seen any letter</p> <p>5 from Mr. Rannazzisi during your time working for</p> <p>6 Rite Aid?</p> <p>7 MS. McENROE: Objection to form.</p> <p>8 THE WITNESS: I did not.</p> <p>9 BY MR. POWERS:</p> <p>10 Q. You can put that exhibit to the</p> <p>11 side.</p> <p>12 You talked a little bit earlier</p> <p>13 about Rite Aid's efforts to combine the different</p> <p>14 elements of the suspicious order monitoring</p> <p>15 program into one location; is that right?</p> <p>16 A. That is correct.</p> <p>17 Q. When did that occur?</p> <p>18 A. We started the process, based on</p> <p>19 this documentation, it looks like late 2012,</p> <p>20 2013.</p> <p>21 Q. And why did you feel you needed</p> <p>22 to do that?</p> <p>23 MS. McENROE: Objection to form.</p> <p>24 THE WITNESS: Because it was too</p>	<p>1 Aid-Hart-16, Email dated 2013-12-24,</p> <p>2 Bates stamped Rite_Aid_OMDL_0016186 and</p> <p>3 Rite_Aid_OMDL_0016187, was marked for</p> <p>4 identification.)</p> <p style="text-align: center;">- - -</p> <p>6 BY MR. POWERS:</p> <p>7 Q. I'm going to hand you what has</p> <p>8 been marked as Rite Aid-Hart Exhibit Number 16.</p> <p>9 It is -- surprise, surprise -- another email and</p> <p>10 attachments. The email is Bates stamp</p> <p>11 Rite_Aid_OMDL_0016186. And the attachment, which</p> <p>12 was a native Excel sheet, just has one Bates</p> <p>13 number, although it's a couple different pages.</p> <p>14 The Bates number of the attachment is</p> <p>15 Rite_Aid_OMDL_0016187.</p> <p>16 A. (Reviewing document.)</p> <p>17 Q. Is the document -- the email and</p> <p>18 attachment reflected in Exhibit 16 familiar to</p> <p>19 you?</p> <p>20 A. Yes.</p> <p>21 Q. When was the last time you saw</p> <p>22 this document?</p> <p>23 A. Back in 2013-2014.</p> <p>24 Q. And what does this document</p>

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<p>1 reflect?</p> <p>2 A. This was a proposal that we were 3 putting together to develop a regulatory 4 compliance department within the corporation.</p> <p>5 Q. Did Rite Aid ever actually put 6 together that regulatory compliance organization?</p> <p>7 A. We did not put it together in 8 this format. It was changed numerous times since 9 that to, right now, what we discussed as far as 10 regulatory compliance under VP Amanda Glover.</p> <p>11 Q. And was this also -- well, let me 12 back up.</p> <p>13 It looks like in the attachment 14 to this email that there are -- it looks like job 15 titles at the top of each different page.</p> <p>16 Like, for example, on the second 17 page of Exhibit 16, it says "Department Head" at 18 the top. Right?</p> <p>19 A. That is correct.</p> <p>20 Q. Am I interpreting that correctly, 21 that those are different titles for different 22 positions for people in the regulatory compliance 23 department?</p> <p>24 A. Those were what was proposed.</p>	<p>1 A. It does.</p> <p>2 Q. So if you want to turn to the 3 second page of Exhibit 16 for the "Department 4 Head," once again, down at the bottom, it says, 5 yellow, "Completely new activity -- need to do" 6 lower -- "to lower risk and increase compliance."</p> <p>7 Right?</p> <p>8 A. It does.</p> <p>9 Q. And under "Department Head," it 10 looks like it has a chart.</p> <p>11 Are those the job 12 responsibilities that the department head would 13 be undertaking?</p> <p>14 A. I believe so, yes.</p> <p>15 Q. And then it divides them up into 16 columns for the job responsibilities should be 17 done daily, weekly and monthly. Right?</p> <p>18 A. Correct.</p> <p>19 Q. And so, for example, the very 20 first one under "Daily," it says, "High level 21 communications with DEA agents/investigators, 22 state Board of Pharmacy agents and other 23 regulatory agencies." Right?</p> <p>24 A. Correct.</p>
<p style="text-align: center;">Page 251</p> <p>1 Obviously you wouldn't call it a department head 2 when you develop the job description, but those 3 are what were proposed as far as job function and 4 names.</p> <p>5 Q. And this would have been in 2013, 6 it looks like, from the cover email. Right?</p> <p>7 A. Yes.</p> <p>8 Q. So this was during the time frame 9 when Rite Aid was still distributing controlled 10 substances out of its own distribution centers.</p> <p>11 Right?</p> <p>12 A. Yes.</p> <p>13 Q. And then you say there in the 14 first page of the email, "Robert, Attached are 15 responsibilities for each position in the new 16 department. Black...we do today and will not 17 change. Red...We do the activity today, but 18 expect greater volume. Yellow...completely new 19 activity."</p> <p>20 Do you see that?</p> <p>21 A. I do.</p> <p>22 Q. So it looks like those color 23 coding correspond to the job descriptions in the 24 attachment. Right?</p>	<p style="text-align: center;">Page 253</p> <p>1 Q. So that particular cell has no 2 highlighting or is not in red text. Right?</p> <p>3 A. Correct.</p> <p>4 Q. So that means that that 5 particular function is already being done at Rite 6 Aid. Right?</p> <p>7 A. That is correct.</p> <p>8 Q. So moving over to the "Weekly" 9 column, the first one there is in red text. 10 Right?</p> <p>11 A. Correct.</p> <p>12 Q. And that one says, "Review all 13 suspicious prescribers with Director, Controlled 14 Substances for an action plan: clinic 15 protocol/shut-off/re-evaluate in 3 months." 16 Right?</p> <p>17 A. Correct.</p> <p>18 Q. And so that particular job 19 responsibility, because it's in red text, means 20 that it -- Rite Aid is doing that activity in 21 2013, but just will be done in greater volume 22 going forward. Right?</p> <p>23 A. True.</p> <p>24 Q. So the one under -- so the cell</p>

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<p>1 under "Weekly" there is in yellow highlighting.</p> <p>2 Right?</p> <p>3 A. Yes.</p> <p>4 Q. So that means that this is a</p> <p>5 completely new activity. Right?</p> <p>6 A. Uh-huh.</p> <p>7 Q. That means that is not being done</p> <p>8 at the time at Rite Aid. Right?</p> <p>9 A. Uh-huh.</p> <p>10 Q. I'm sorry, I need a verbal</p> <p>11 answer.</p> <p>12 A. Yes.</p> <p>13 Q. Just so I have this clearly, one</p> <p>14 is the -- the cells highlighted in yellow in this</p> <p>15 document, the activity described is not being</p> <p>16 done at all at the time in 2013. Correct?</p> <p>17 A. Correct.</p> <p>18 Q. And not just by the department</p> <p>19 head or anything, it's not being done by anyone</p> <p>20 at Rite Aid. Right?</p> <p>21 MS. McENROE: Objection to form.</p> <p>22 THE WITNESS: That is correct.</p> <p>23 BY MR. POWERS:</p> <p>24 Q. So there under "Department Head,"</p>	<p>1 title "Specialist, Regulatory Compliance," it's I</p> <p>2 think the third page, a little 3 at the bottom.</p> <p>3 Over in the left-hand column for</p> <p>4 "Daily," there's a cell that says "Suspicious</p> <p>5 Order Monitoring, Distribution Centers." And</p> <p>6 it's highlighted in yellow. Right?</p> <p>7 A. That is correct.</p> <p>8 Q. So that's a completely new</p> <p>9 activity that is not being done at Rite Aid at</p> <p>10 the time. Right?</p> <p>11 MS. McENROE: Objection to form.</p> <p>12 THE WITNESS: That activity was</p> <p>13 not being done on a daily basis at the</p> <p>14 corporate office. The suspicious order</p> <p>15 monitoring program was in place. This</p> <p>16 was bringing it in to the corporate</p> <p>17 office at that particular point of time.</p> <p>18 That does not mean that it wasn't being</p> <p>19 done.</p> <p>20 BY MR. POWERS:</p> <p>21 Q. But the yellow highlighting says</p> <p>22 completely new activity. So this says it's a</p> <p>23 completely new activity.</p> <p>24 Didn't you just testify that</p>
<p style="text-align: center;">Page 255</p> <p>1 it says, "Develop dashboard reporting for</p> <p>2 controlled substances and establish criteria to</p> <p>3 identify trends within all aspects of controlled</p> <p>4 substances, listed chemicals and PMP Programs."</p> <p>5 Right?</p> <p>6 A. Yes.</p> <p>7 Q. So that was not being done at</p> <p>8 Rite Aid in 2013. Right?</p> <p>9 A. Correct.</p> <p>10 Keep in mind that that's not</p> <p>11 related to the distribution center. The trends</p> <p>12 and all aspects of controlled substances was</p> <p>13 related to the dispensing pharmacies.</p> <p>14 Q. I'm just asking if it was done at</p> <p>15 Rite Aid at all.</p> <p>16 A. Okay.</p> <p>17 Q. And that would include at the</p> <p>18 distribution centers.</p> <p>19 A. Okay.</p> <p>20 MS. McENROE: You can make your</p> <p>21 answers complete. It's okay.</p> <p>22 THE WITNESS: Thank you.</p> <p>23 BY MR. POWERS:</p> <p>24 Q. So moving on to the page with the</p>	<p style="text-align: center;">Page 257</p> <p>1 that's what that meant?</p> <p>2 MS. McENROE: Objection to form.</p> <p>3 THE WITNESS: It is a completely</p> <p>4 new activity, but the completely new</p> <p>5 activity is for the department that we</p> <p>6 were putting together at the time.</p> <p>7 BY MR. POWERS:</p> <p>8 Q. It doesn't specify that here in</p> <p>9 this document, though, does it?</p> <p>10 MS. McENROE: Objection to form.</p> <p>11 THE WITNESS: It doesn't specify</p> <p>12 it in the document.</p> <p>13 BY MR. POWERS:</p> <p>14 Q. Moving down further in that</p> <p>15 particular column, the next yellow cell says,</p> <p>16 "Report suspicious orders from the DC to the DEA</p> <p>17 (when identified and confirmed)."</p> <p>18 That's also identified as a</p> <p>19 completely new activity in this document. Right?</p> <p>20 MS. McENROE: Objection to form.</p> <p>21 THE WITNESS: It is, again, for</p> <p>22 the department that we would again bring</p> <p>23 it in to the corporate office. When we</p> <p>24 were developing the department, we were</p>

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<p>1 attempting to get everything from a 2 regulatory compliance under one roof and 3 that was part of that.</p> <p>4 BY MR. POWERS:</p> <p>5 Q. You testified earlier, though, 6 that the cells identified by the yellow 7 highlighting meant that it was not being done by 8 anyone at Rite Aid. Right? That's what you 9 testified to earlier?</p> <p>10 MS. McENROE: Objection to form.</p> <p>11 THE WITNESS: Then I misspoke. 12 It was not being done by anybody in the 13 corporate office. That would be done by 14 the individuals at the distribution 15 center.</p> <p>16 BY MR. POWERS:</p> <p>17 Q. But this document doesn't specify 18 that, does it?</p> <p>19 A. It does not.</p> <p>20 Q. Going further down in that column 21 that we're just looking at, it says in the bottom 22 there, "Develop a program to establish trends in 23 controlled substance ordering from McKesson, ANDA 24 and Rite Aid Distribution Centers."</p>	<p>1 things that we talked about in the daily column 2 here on the "Specialist, Regulatory Compliance" 3 page, you said those were being done at the 4 distribution center. Right?</p> <p>5 A. Yes.</p> <p>6 Q. What's your basis for saying 7 that?</p> <p>8 A. The distribution center was 9 responsible for the picking, reviewing the 10 orders, determining if it was suspicious or not, 11 making the phone call to the pharmacist. And at 12 the same time, if there was a suspicious order, 13 the distribution center was responsible to report 14 that in to corporate. That was part of their 15 standard operating procedures.</p> <p>16 Q. I just want to be clear. You 17 just said that the distribution center was 18 responsible for determining whether a particular 19 order was suspicious or not; is that right?</p> <p>20 A. The distribution center was 21 responsible for identifying orders and 22 determining if they were suspicious, yes.</p> <p>23 Q. Moving on to the next page, the 24 one entitled "Senior Analyst, Controlled</p>
Page 259	Page 261
<p>1 Do you see that?</p> <p>2 A. I do.</p> <p>3 Q. And that's also identified as a 4 completely new activity. Right?</p> <p>5 A. It is.</p> <p>6 Q. And then over in the "Monthly" 7 column in that same page, it says, "Review 8 McKesson and DC threshold 9 requests/actions/outcomes on a quarterly basis 10 looking for issues/trends and reassess current 11 need." Right?</p> <p>12 A. It does.</p> <p>13 Q. And once again, that's something 14 that's identified as completely new activity. 15 Right?</p> <p>16 A. The completely new activity was 17 to review it on a quarterly basis. Trends, 18 requests for threshold increases, were reviewed 19 on a one-by-one basis. So yes, this was a new 20 establishing a quarterly review.</p> <p>21 Q. So you weren't reviewing trends 22 except on a one-by-one basis before this?</p> <p>23 A. Correct.</p> <p>24 Q. And you said some of the other</p>	<p>1 Substances."</p> <p>2 In the "Daily" column, which is 3 another yellow highlighted cell, it says, 4 "Utilize IMS tool to identify potential 5 exceptions for individual Rite Aid" stores.</p> <p>6 Do you see that?</p> <p>7 MS. McENROE: Objection. Just 8 for clarification, I think it says 9 locations instead of stores, Will.</p> <p>10 MR. POWERS: Oh. Sorry.</p> <p>11 MS. McENROE: Do you want to just 12 read that one again?</p> <p>13 BY MR. POWERS:</p> <p>14 Q. It says in the "Daily" column 15 there, on the bottom cell on the page, entitled 16 "Senior Analyst, Controlled Substances," "Utilize 17 IMS tool to identify potential exceptions for 18 individual Rite Aid locations."</p> <p>19 Do you see that?</p> <p>20 A. I do.</p> <p>21 Q. What does the IMS tool refer to 22 there?</p> <p>23 A. It is an industry tool of all the 24 data from dispensing pharmacies -- retail</p>

<p style="text-align: right;">Page 262</p> <p>1 dispensing pharmacies that is DEA identified that 2 provides analytics and data to the company. 3 Q. And what is the potential 4 exception referred to here? 5 A. An exception would be a Rite Aid 6 pharmacy that would be an outlier, such as, say, 7 a store that dispensed the highest amount of 8 oxycodone, then we would want to look at that 9 book of business at that time. This is 10 identified as new because the IMS tool was just 11 rolled out at that particular time. It was in 12 its infancy and we had just started to use the 13 tool in 2013.</p> <p>14 Q. Before 2013, did Rite Aid ever 15 use the IMS tool?</p> <p>16 A. Not related to controlled 17 substances. Rite Aid uses the IMS data for other 18 different types of analytics for different 19 departments. It was just the controlled 20 substance tool was new at that time.</p> <p>21 Q. Looking over in the "Monthly" 22 column on this same page, "Senior Analyst, 23 Controlled Substances," it looks like in the 24 second cell, the third cell and the fourth cell,</p>	<p style="text-align: right;">Page 264</p> <p>1 BY MR. POWERS: 2 Q. You said you did some analysis. 3 How did you do that analysis? 4 MS. McENROE: Objection. 5 THE WITNESS: We ran data from 6 our dispensing system and looked at the 7 various stores, as far as the various 8 products, identified outliers and then 9 would do a follow-up on that.</p> <p>10 BY MR. POWERS: 11 Q. Did you do that, running the 12 dispensing data and looking for outliers, to 13 determine whether orders were suspicious orders? 14 MS. McENROE: Objection to form. 15 THE WITNESS: The analysis of 16 these items were not related to 17 suspicious orders. It was related to 18 individual stores and their dispensings.</p> <p>19 BY MR. POWERS: 20 Q. So the trends that you were doing 21 analysis of before 2013 of sales of oxycodone, 22 hydrocodone and hydromorphone were not related to 23 identifying suspicious orders? 24 A. They were not.</p>
<p style="text-align: right;">Page 263</p> <p>1 and I'll read them in order, they're all 2 highlighted in yellow. Right? 3 A. Yes. 4 Q. It says, "Routine analysis of 5 stores trending high in oxycodone sales. 6 "Routine analysis of stores 7 trending high in hydrocodone sales. 8 "Routine analysis of stores 9 trending high hydromorphone sales." Right? 10 A. Correct. 11 Q. And those are identified with 12 yellow highlighting as completely new activities. 13 Right? 14 A. The routine analysis of that was, 15 yes, a new activity. 16 Q. So Rite Aid was not doing a 17 routine analysis of stores with trending high 18 oxycodone, hydrocodone or hydromorphone before 19 2013. Right? 20 MS. McENROE: Objection. 21 THE WITNESS: We did not do a 22 routine analysis, but we did do analysis. 23 This was, again, putting some structure 24 to the analysis to make it more routine.</p>	<p style="text-align: right;">Page 265</p> <p>1 Q. Further down in the "Monthly" 2 column there, once again, they're all -- all 3 these cells are highlighted in yellow. It says, 4 "Analysis of top prescribers for oxycodone. 5 "Analysis of top prescribers for 6 hydrocodone. 7 "Analysis of top prescribers for 8 hydromorphone. 9 "Analysis of top prescribers for 10 methadone. 11 "Analysis of top prescribers for 12 buprenorphine." 13 Do you see those particular 14 cells? 15 A. I do. 16 Q. So Rite Aid was not doing 17 analysis for those particular drugs before 2013; 18 is that correct? 19 MS. McENROE: Objection to form. 20 THE WITNESS: That is not 21 correct. We were doing analysis. It was 22 not being done on a monthly basis. And, 23 again, we wanted to bring this all into 24 the one department. But there were</p>

<p>1 analysis of prescribers for oxycodone, 2 hydrocodone. It was just not monthly and 3 it was not on a routine basis.</p> <p>4 BY MR. POWERS:</p> <p>5 Q. But once again, these are all 6 columns -- all cells highlighted in yellow are 7 described as a completely new activity. Right?</p> <p>8 A. True.</p> <p>9 Q. And there's no modifier in front 10 of "analysis." It does not say, like above, 11 routine analysis in these ones that I just read. 12 Right?</p> <p>13 A. True.</p> <p>14 Q. So that means that, as I read 15 this document, that any analysis was a completely 16 new activity, according to this document.</p> <p>17 Isn't that right?</p> <p>18 MS. McENROE: Objection to form, 19 misstates testimony.</p> <p>20 THE WITNESS: That is how it may 21 read to you, yes.</p> <p>22 BY MR. POWERS:</p> <p>23 Q. And what do you do with any 24 analysis of stores trending high in oxycodone,</p>	<p>Page 266</p> <p>1 THE WITNESS: It was just a 2 running of all hydrocodone dispensings 3 from the particular pharmacies.</p> <p>4 BY MR. POWERS:</p> <p>5 Q. And who performed that analysis?</p> <p>6 A. We would do it in our department 7 through the analytics. Or if my team wasn't as 8 sophisticated, we would have asset protection 9 also try to run some other reports.</p> <p>10 Q. When you say your department, you 11 mean the government affairs department?</p> <p>12 A. Yes. The people that worked for 13 me.</p> <p>14 Q. And did you use that analysis of 15 the hydro -- or excuse me -- hydrocodone sales to 16 identify potentially suspicious orders?</p> <p>17 A. We did not use that to identify 18 suspicious orders.</p> <p>19 Q. Did you document that analysis in 20 any way?</p> <p>21 A. There would be analysis, yes, in 22 files in my office that were turned over.</p> <p>23 Q. Do you know if you turned over 24 those files to your attorneys?</p>
<p>1 hydrocodone, hydromorphone or methadone?</p> <p>2 MS. McENROE: Objection to form.</p> <p>3 [REDACTED]</p> <p>4 [REDACTED]</p> <p>5 [REDACTED]</p> <p>6 [REDACTED]</p> <p>7 [REDACTED]</p> <p>8 [REDACTED]</p> <p>9 [REDACTED]</p> <p>10 [REDACTED]</p> <p>11 [REDACTED]</p> <p>12 Now, in the overall scheme of all 13 of the items that are on here, I still 14 would like to point out, leading back to 15 the case at hand, the only drug that was 16 ever distributed by the distribution 17 center in question was the hydrocodone. 18 And again, that was when it was a 19 Schedule III controlled substance.</p> <p>20 BY MR. POWERS:</p> <p>21 Q. Those hydrocodone analyses that 22 were done, what were the -- was there a name for 23 that analysis when it was done?</p> <p>24 MS. McENROE: Objection to form.</p>	<p>Page 267</p> <p>1 A. I did.</p> <p>2 Q. Is there a particular name for 3 the file that they are kept in?</p> <p>4 A. It would be hydrocodone. That 5 would be it. Or it would be an analytics 6 hydrocodone and the year. That's about it.</p> <p>7 MS. McENROE: We've been going a 8 little over an hour.</p> <p>9 MR. POWERS: You read my mind. 10 Let's take a break.</p> <p>11 THE VIDEOGRAPHER: Going off the 12 record at 3:56.</p> <p>13 - - -</p> <p>14 (A recess was taken from 15 3:56 p.m. to 4:26 p.m.)</p> <p>16 - - -</p> <p>17 THE VIDEOGRAPHER: We're back on 18 the record at 4:26 p.m.</p> <p>19 MR. POWERS: I have no further 20 questions for the witness.</p> <p>21 MS. McENROE: Great. Thank you. 22 We have no further questions as well. 23 And we view this as the end of Ms. Hart's 24 fact deposition.</p>

1 MR. POWERS: Yes. She's coming 2 back for the 30(b)(6) tomorrow. 3 MS. McENROE: Agreed. Thank you. 4 THE VIDEOGRAPHER: This ends 5 today's deposition. We're going off the 6 record. The time is 4:26 p.m. 7 (Witness excused.) 8 (Deposition concluded at 9 approximately 4:26 p.m.) 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24	Page 270	1 INSTRUCTIONS TO WITNESS 2 3 Please read your deposition over 4 carefully and make any necessary corrections. 5 You should state the reason in the appropriate 6 space on the errata sheet for any corrections 7 that are made. 8 After doing so, please sign the 9 errata sheet and date it. 10 You are signing same subject to 11 the changes you have noted on the errata sheet, 12 which will be attached to your deposition. 13 It is imperative that you return 14 the original errata sheet to the deposing 15 attorney within thirty (30) days of receipt of 16 the deposition transcript by you. If you fail to 17 do so, the deposition transcript may be deemed to 18 be accurate and may be used in court. 19 20 21 22 23 24
1 2 CERTIFICATE 3 4 5 I HEREBY CERTIFY that the witness 6 was duly sworn by me and that the deposition is a 7 true record of the testimony given by the 8 witness. 9 10 It was requested before 11 completion of the deposition that the witness, 12 JANET GETZEY HART, have the opportunity to read 13 and sign the deposition transcript. 14 15 ANN MARIE MITCHELL, a Federally 16 Approved Certified Realtime 17 Reporter, Registered Diplomate 18 Reporter, Registered Merit Reporter and 19 Notary Public 20 21 22 23 24 (The foregoing certification of 25 this transcript does not apply to any 26 reproduction of the same by any means, unless 27 under the direct control and/or supervision of 28 the certifying reporter.)	Page 271	1 ----- 2 ERRATA 3 4 PAGE LINE CHANGE 5 _____ 6 REASON: _____ 7 _____ 8 REASON: _____ 9 _____ 10 REASON: _____ 11 _____ 12 REASON: _____ 13 _____ 14 REASON: _____ 15 _____ 16 REASON: _____ 17 _____ 18 REASON: _____ 19 _____ 20 REASON: _____ 21 _____ 22 REASON: _____ 23 _____ 24 REASON: _____

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2 ACKNOWLEDGMENT OF DEPONENT

3

4 I, _____, do
5 hereby certify that I have read the foregoing
6 pages, 1 - 274, and that the same is a correct
7 transcription of the answers given by me to the
8 questions therein propounded, except for the
9 corrections or changes in form or substance, if
10 any, noted in the attached Errata Sheet.

11

12

13 _____

14 JANET GETZEY HART DATE

15

16

17 Subscribed and sworn
to before me this

18 _____ day of _____, 20_____.
19 My commission expires: _____

20

21 Notary Public

22

23

24